

**In the Matter Of:**

*Page 1 KELLI DENISE GOODE vs  
CITY OF SOUTHAVEN  
2:16-cv-02029*

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*CYRIL WECHT  
March 21, 2017*

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**2**

1 DEPOSITION OF CYRIL H. WECHT, M.D., J.D.,  
2 a witness herein, called by the Defendant, Jemuel  
3 Donja Oliver, MD, taken pursuant to the Federal Rules  
4 of Civil Procedure, by and before Kathy D. Landock, a  
5 Registered Merit Reporter, Certified Realtime  
6 Reporter and a Notary Public in and for the  
7 Commonwealth of Pennsylvania, at 1119 Penn Avenue,  
8 Suite 404, Pittsburgh, PA 15222, on Tuesday,  
9 March 21, 2017 commencing at 9:09 a.m.

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**3**

COUNSEL PRESENT:

For the Plaintiff:

John Timothy Edwards, Esquire  
BALLIN, BALLIN & FISHMAN, PC  
200 Jefferson Avenue  
Suite 1250  
Memphis, TN 38103  
T. 901-525-6278  
E. tedwards@bbfpc.com

For the Defendant, Lemeul Donja Oliver, MD:

Marty R. Phillips, Esquire  
RAINEY, KIZER, REVIERE & BELL, PLC  
105 South Highland Avenue  
Jackson, TN 38301  
T. 731-426-3128  
E. mphilips@raneykizer.com

and

J. Ric Gass, Esquire  
GASS WEBER MULLINS, LLC  
309 North Water Street  
Milwaukee, WI 53202  
T. 414-224-7697  
E. gass@gasswebermullins.com

For the Defendants, City of Southaven, Todd Baggett,  
Jeremy Bond, Tyler Price, Joel Rich, Jason Scallorn,  
Stacie Graham, Mike Mueller, William Painter, Jr.,  
Bruce Sebring, and Richard Weatherford:

(Via Telephone Conference):  
L. Bradley Dillard, Esquire  
MITCHELL McNUTT & SAMS, PA  
105 South Front Street  
Tupelo, MS 38804  
T. 662-842-3871  
E. bdillard@mitchellmcnutt.com

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COUNSEL PRESENT (Cont.):

For the Defendant, Baptist Memorial  
Hospital-Desoto, Inc.:

David W. Upchurch, Esquire  
John M. McIntosh, Esquire (Via Telephone)  
UPCHURCH & UPCHURCH, PA  
141 South Commerce Street  
Suite B  
Tupelo, MS 38803  
T. 662-260-6952  
E. dupchurch@upchurchpa.com

For the Defendant, Southeastern Emergency  
Physicians, Inc.:

Stephen P. Miller, Esquire  
McDONALD KUHN  
5400 Poplar Avenue  
Suite 330  
Memphis, TN 38119  
T. 901-526-0606  
E. smiller@mckuhn.com

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P R O C E E D I N G S

- - -

CYRIL H. WECHT, M.D., J.D.,  
having been first duly sworn, was examined and  
testified as follows:

- - -

E X A M I N A T I O N

BY MR. PHILLIPS:

Q. Tell us your name, please, sir.

A. Cyril H. Wecht.

Q. Dr. Wecht, your CV indicates you had a  
birthday yesterday; is that right?

A. Yes.

Q. Happy belated birthday.

A. Thank you.

Q. You were 86 yesterday?

A. Yes.

Q. Did you do a private autopsy on Trey Goode?

A. Yes.

Q. I said Trey. Excuse me, Troy Goode.

A. Yes.

Q. Where was that done?

A. Carlow University, where I do all my  
autopsies. It's about ten minutes from here, what we  
call the Oakland section of town, toward the



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1 universities.

2 Q. The report that we've been submitted in this  
3 case for you indicates that that autopsy was done on  
4 July 20, 2015. Is that date correct?

5 A. Yes. I believe you still have some records  
6 down there. May I see those?

7 July 23, 2015, correct.

8 Q. I'm sorry, what date did you say?

9 A. July 23, 2015.

10 Q. In the letter dated December 5, 2016 to  
11 Mr. Edwards, which has been provided to us as part of  
12 your disclosure, on page 3 of that letter it says  
13 postmortem exam on July 20, 2015, Dr. Wecht's  
14 autopsy, and then it lists a number.

15 A. Then that's incorrect. The correct date is  
16 July 23, because that's what was dictated right by me  
17 at the autopsy.

18 Q. Do you know how the date of July 20 came to  
19 be included in the report?

20 A. Can I see that letter, please?

21 Q. Sure.

22 A. Is this the page here?

23 Q. Yes, sir. See at the very bottom where it  
24 references postmortem.

25 A. The answer is it's a mistake. The report

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1 that I sent him on December 5, 2016, my mistake or my  
2 secretary's mistake, but the correct date is July 23.

3 Q. Did you list a time that you performed the  
4 autopsy?

5 A. It says here 3:30 p.m., that's eastern  
6 standard time.

7 Q. Is that the time it was commenced or  
8 completed?

9 A. That's when it started.

10 Q. How long did it take?

11 A. Oh, I don't know, usually about an hour and  
12 a half in a case like this.

13 Q. Did anybody assist you with the autopsy?

14 A. Yes. I have an assistant, Joseph Mancuso,  
15 my long time assistant.

16 Q. What is Mr. Mancuso's training?

17 A. He's trained as a pathology assistant. He  
18 is a licensed funeral director. He's a licensed  
19 embalmer. And he's then been doing autopsies for  
20 about 40 years or so, as an assistant.

21 Q. What did he actually do with regard to  
22 Mr. Goode's autopsy?

23 A. He helps me with -- he does the heavy  
24 lifting with the body. And then he will do a lot of  
25 physical things, getting the body ready, take it out

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1 of the Zeigler case in which it had been submitted;  
2 and in this case taking apart the strings from the  
3 previous autopsy and looking at the organs and so on.  
4 Those are the things that he does.

5 Q. Would he have any role in providing any  
6 gross description or microscopic description?

7 A. No.

8 Q. All of that would have been done by you?

9 A. Yes.

10 Q. Was the body embalmed when it came to you?

11 A. No.

12 Q. Do you recall or can you tell us when you  
13 were first contacted about this matter?

14 A. It would have been as I recall then by phone  
15 from Mr. Edwards probably a few days before the body  
16 was sent to me. So I would just say it could have  
17 been around July 20, a day or two possibly earlier.  
18 Sometime around there.

19 Q. Sometime around July 20 you think?

20 A. Yeah, a few days prior to the body being  
21 shipped to me.

22 Q. Do you recognize that document, sir?

23 A. Yes. This is the authorization for the  
24 autopsy.

25 Q. Does it bear a fax date at the top?

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**11**

1           A.     July 21, 2015.

2           Q.     The authorization is signed by Mrs. Goode  
3     and also an attorney; is that right?

4           A.     Yes.

5                     MR. PHILLIPS:   Mark the authorization as  
6     Exhibit No. 1.

7                     (Deposition Exhibit No. 1 was marked for  
8     identification.)

9     BY MR. PHILLIPS:

10          Q.     When you were initially contacted by  
11     Mr. Edwards, what information were you given?

12          A.     I don't recall specifically, but my  
13     recollection is I was told that this was a young man  
14     who had the basics; had gone to a concert with his  
15     wife and friends and then had some behavioral  
16     problems afterwards; I'm not sure if I was told then  
17     that he had taken LSD, I probably was; and then he  
18     was arrested, and that he died sometime thereafter  
19     within a couple of hours after being in police  
20     custody; and then an autopsy had been done there and  
21     the family wanted a second autopsy.

22          Q.     Were you given any information about the  
23     manner in which he was restrained?

24          A.     At that time, I don't think so.  I do  
25     believe some comment was made about his having been

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1     restrained, but not in the kind of detail that I  
2     subsequently came to learn.

3           Q.     At the time that you did the autopsy on July  
4     23, had you been provided any records to review about  
5     Mr. Goode?

6           A.     No.   As I recall, I did not have the records  
7     at that time.

8           Q.     Did you prepare an autopsy report?

9           A.     Yes.

10          Q.     Do you have any idea why it has not been  
11     previously provided to us before today?

12          A.     You would have to speak to Mr. Edwards about  
13     that.

14          Q.     Do you have your autopsy report in front of  
15     you?

16          A.     Yes.

17                 MR. PHILLIPS:   I would like to mark it as  
18     Exhibit No. 2, please.   I'm happy to make whatever  
19     accommodations we need to, doctor, with regard to  
20     copies and all so you have a complete file when we  
21     leave.

22                 THE WITNESS:   What did you say, the second  
23     part?

24     BY MR. PHILLIPS:

25           Q.     I'm happy to make any accommodations for

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1 copying.

2 A. I can have it copied now.

3 Q. I would rather not stop.

4 A. You want to refer to it?

5 Q. Yes. We can substitute a copy later.

6 (Deposition Exhibit No. 2 was marked for  
7 identification.)

8 BY MR. PHILLIPS:

9 Q. Did you let Mr. Edwards or Mr. McCormack  
10 know that you had prepared an autopsy report?

11 A. Yes, best of my recollection is it would  
12 have been sent to Mr. Edwards.

13 Q. Do you have any correspondence showing that  
14 the autopsy report was sent to counsel who retained  
15 you?

16 A. Not specifically, no.

17 Q. I've not had a chance to read your autopsy  
18 report, but in the report did you reach a conclusion,  
19 did you state a conclusion as to the cause of death?

20 A. No, I did not.

21 Q. Why is that that you did not state a  
22 conclusion as to the cause of death in your autopsy  
23 report?

24 A. I did not find anything in the autopsy  
25 itself that permitted me to give an anatomical

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1 pathological cause of death.

2 Also, I knew that an autopsy had been done.  
3 I always want to see the original autopsy report. I  
4 also knew the toxicology tests were being performed  
5 there and that I was going to submit some stuff for  
6 toxicology also.

7 So that's the way you handle it then,  
8 pending further information, toxicology results and  
9 clinical background.

10 Q. At the time of the autopsy you were able to  
11 make a gross observation of the body and the organs;  
12 right?

13 A. Yes.

14 Q. Meaning with the naked eye?

15 A. Yes.

16 Q. And you're also preparing slides that you'll  
17 evaluate under the microscope?

18 A. Yes. I take pieces of tissue and submit  
19 them to the histopathologist for preparation of  
20 slides.

21 Q. And are you the one who actually analyzes  
22 the slides?

23 A. Yes.

24 Q. Does your autopsy report, which we've marked  
25 as Exhibit No. 2, describe what you saw on the

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1 microscopic examinations?

2 A. No, it does not.

3 Q. Is there anything that you have prepared  
4 that would tell us how you interpreted the slides?

5 A. I don't know if anything specific is there  
6 in terms of findings because there wasn't anything of  
7 a definitive nature insofar as determining cause of  
8 death.

9 Yes, if you'll look on page 4 of my autopsy  
10 report you'll see the statement 29 H and E, this  
11 refers to the kind of stain, stain slides labeled CHW  
12 15-275 T. Goode show autolyzed organs without any  
13 specific histopathologic alterations.

14 So that sums it up, there wasn't anything of  
15 a specific relevant nature insofar as determining  
16 cause of death is concerned.

17 Q. Do I understand correctly then, Dr. Wecht,  
18 that based upon your gross description and your  
19 findings at autopsy you could not reach a conclusion  
20 as to cause of death; right?

21 A. Yes.

22 Q. And based upon your analysis of the  
23 pathology slides, you could not reach a conclusion as  
24 to cause of death?

25 A. I could not.



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**16**

1 Q. On that page to which you just referenced  
2 from your report, it's the letter dated December 5,  
3 2016 to Mr. Edwards, you give a reference to this  
4 particular case, CHW. Do you see that?

5 A. Yes.

6 Q. That's because you're the one who did the  
7 autopsy, those are your initials?

8 A. Yes.

9 Q. And then 15, is that the year of the exam?

10 A. Yes.

11 Q. And what does 275 mean?

12 A. That was the number of the autopsy as of  
13 that time.

14 Q. For the year 2015?

15 A. As of July 23, yes.

16 Q. So that would mean that Mr. Goode's autopsy  
17 was the 275th autopsy you had done that year; is that  
18 right?

19 A. Up until July 23, yes.

20 Q. Sure, at the time you assigned the number?

21 A. Yes.

22 Q. Did you talk to anyone besides Mr. Edwards  
23 before doing the autopsy?

24 A. No.

25 Q. Did you ultimately get a copy of the autopsy

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1 report prepared by the Mississippi medical examiner?

2 A. Yes.

3 Q. Do you know when you received that?

4 A. No, I do not have a date showing the time  
5 that I received that report.

6 Q. Do you know at what point in time you did  
7 reach a conclusion as to cause of death?

8 A. Yes. It would have been sometime shortly  
9 before I submitted my report, some days. But once I  
10 conclude things, then I go about and I submit the  
11 report.

12 The report was submitted, my narrative  
13 report, to Mr. Edwards dated December 5, 2016. So I  
14 would say probably sometime after Thanksgiving, at  
15 the end of November and going into the first couple  
16 days of December, that's when I would have finalized  
17 everything and prepared a report, because once I put  
18 everything together, then that's the time I do the  
19 final report.

20 Q. And you would not have reached a conclusion  
21 as to cause of death until then?

22 A. I might have had some thoughts, I'm sure I  
23 did, but I would say that I would not have reached a  
24 final conclusion until I had reviewed everything and  
25 thought it through and so on until around the time

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1 that I sent it.

2 Q. I want you to assume that Mr. Edwards  
3 provided a statement to the press on November 18,  
4 2015 in which he said that he had made arrangements  
5 for an independent autopsy and that he had been in  
6 possession of the doctor's opinion for months.

7 A. I'm sorry, what was the date of that.

8 Q. November 18, 2015.

9 A. The statement was what?

10 Q. The statement was made on November 18, 2015  
11 that he had made arrangements for an independent  
12 autopsy to be performed and that he had been in  
13 possession of the doctor's opinions for months.

14 MR. EDWARDS: Object to the form.

15 BY MR. PHILLIPS:

16 Q. Is that an accurate statement, as far as you  
17 know?

18 A. I can't speak for Mr. Edwards. I'm sure  
19 that I would have talked with him. As to what he  
20 concluded or inferred from any comments that I made,  
21 I can't tell you.

22 I can only tell you that my recollection is  
23 based upon really more a matter of my modus operandi  
24 than a specific chronological recollection down to  
25 the day or even the specific week, that when I get

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1 around to writing the written report it's pretty darn  
2 close to when I have finalized things in my mind,  
3 because I'm pretty active and got a lot of reports to  
4 do and so on, so it doesn't make sense for me to  
5 think things through and then come back to them weeks  
6 or months later.

7 It may well be that I discussed with  
8 Mr. Edwards after having received information of the  
9 background of this event and discussion about what  
10 had transpired and then referring to the original  
11 autopsy report that I may well have told him what I  
12 was thinking. That certainly is quite possible and  
13 logical.

14 As to what Mr. Edwards chose to say, I can't  
15 tell you. Attorneys say things whenever they want to  
16 for their purposes, as all of you gentlemen I'm sure  
17 know. How that relates to the rest of reality and  
18 the rest of the world involved in the matter, that's  
19 something that I can't deal with. That's part of the  
20 legal process.

21 Q. As of December 5, 2016 when you wrote this  
22 report to which you made reference earlier, had you  
23 reviewed the autopsy report from the Mississippi  
24 medical examiner?

25 A. When I submitted my report on December 5, is

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1 that your question?

2 Q. Yes, sir. By that time had you reviewed the  
3 autopsy report from the Mississippi medical examiner?

4 A. I'm trying to see here. Because you asked  
5 me earlier when had I received it, and I told you I  
6 don't know. I'm looking at my report to see if I  
7 refer to that initial autopsy report. I do not.

8 That kind of suggests to me, I can't be  
9 positive, but it kind of suggests to me that I had  
10 not received it, although I don't see why I would not  
11 have received it. I just can't be certain. Usually,  
12 however, I would mention what had been issued in such  
13 a report, and I see no such reference.

14 Q. In fact, in your December 5, 2016 letter to  
15 Mr. Edwards there's not a reference to the autopsy  
16 report from Mississippi, is there?

17 A. That is correct.

18 Q. Are you telling us that it would be your  
19 practice to make reference to it if you had received  
20 it and reviewed it up until that point?

21 A. Usually I do. It's not any rigid,  
22 self-imposed rule, but much more often, most often I  
23 do make reference to an earlier autopsy report.

24 Q. Did you do toxicology studies yourself or  
25 have them done?

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**21**

1           A.    I submitted stuff for toxicology. I myself,  
2 I'm not a toxicologist, I don't do the testing.

3           Q.    Yes, sir, but you retrieved samples and  
4 submitted them for analysis; is that right?

5           A.    Yes, I did.

6           Q.    Do you have copies of the toxicology studies  
7 there?

8           A.    Yes, I do.

9           Q.    Have you provided that to anybody before  
10 today?

11          A.    Again, I would think that I had passed this  
12 on to Mr. Edwards, but I cannot say for certain  
13 because I do not have such a covering letter.

14          Q.    May I see the toxicology reports?

15          A.    Wait a minute, this one does say to  
16 Mr. Edwards on August 14, 2016. So I correct what I  
17 just said, there is a cover letter for this.

18          Q.    Is this the entirety of the toxicology  
19 analysis that you had done?

20          A.    Not that I had done. That's the entirety of  
21 their report.

22          Q.    Yes, sir. But you requested them to do the  
23 analysis is my point?

24          A.    Oh, yes. Of course.

25          Q.    That's the entirety of the report you got

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1 back?

2 A. Yes. This is all I have, from the liver  
3 tissue that I submitted to them.

4 MR. PHILLIPS: Let's mark this as Exhibit  
5 No. 3.

6 (Deposition Exhibit No. 3 was marked for  
7 identification.)

8 BY MR. PHILLIPS:

9 Q. Are you able to tell when you received the  
10 toxicology results that we've marked at Exhibit  
11 No. 3, Dr. Wecht?

12 A. Well, they should have a date on their  
13 report. Their report, report issued it says here  
14 August 4, 2015.

15 Q. Can you tell us when you received it then?

16 A. Well, usually it takes a day or two in the  
17 mail. A couple days usually it comes in. So it  
18 would have been August 5, August 6, something like  
19 that.

20 Q. The specimens that were taken would have  
21 been drawn on July 23 at the time of your autopsy;  
22 right?

23 A. Yes. Not drawn because there were no body  
24 fluids. It was liver tissue that was submitted and  
25 brain tissue. I submitted liver, kidney and brain to

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1       them. They chose to do tests on liver.

2           Q.     So there's no blood submitted?

3           A.     No.

4           Q.     Why is that?

5           A.     Because the body had already been autopsied.  
6       There was no blood. Any little seepage that remained  
7       would have been exposed and any results would not be  
8       valid because whatever seepage there was also would  
9       have been a confluence of fluid from who knows where  
10      in the body. So there's no way you can submit blood  
11      in a case like this.

12          Q.     Does that impede at all the ability to do a  
13      toxicology analysis if one is drawing a specimen or  
14      retrieving a specimen about five days after death as  
15      opposed to doing it shortly after death?

16          A.     No. Within a matter of a few days, you  
17      don't need blood. It's always best to have urine and  
18      blood and bile from the gallbladder in a fresh case,  
19      but you can get body organs and tissues, and if they  
20      have not been embalmed, then you can get a reliable  
21      test from tissues.

22                 The liver is the source of metabolism for  
23      most of the drugs in the body, and that's why that is  
24      the organ of preference for the toxicology lab to  
25      test.



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1 Q. What did that report indicate with regard to  
2 the toxicology analysis?

3 A. Just a positive test for a metabolite of  
4 some kind, Beta-Phenethylamine and Delta-9 Carboxy  
5 THC, Tetrahydrocannabinol, 870 nanograms per gram.

6 Q. Is that the active ingredient in marijuana?

7 A. No. I believe it's an inactive. Delta-9,  
8 this is an inactive metabolite. Delta-9 Carboxy  
9 THC is an inactive metabolite and so stated, by the  
10 way, in the autopsy report. It's not my subjective  
11 interpretation.

12 It's Delta-9 THC that is the active  
13 metabolite. Delta-9 Carboxy THC is an inactive  
14 metabolite.

15 Q. From marijuana?

16 A. Yes.

17 Q. What else did it show?

18 A. Well, as I referred to, some  
19 Beta-Phenethylamine, which is I think just -- I'm not  
20 sure from which drug it comes. It's not one of the  
21 toxic drugs.

22 Q. Any other positive findings?

23 A. No, not in this report, no.

24 Q. Did you have made available to you the  
25 toxicology report that was done in Mississippi?

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1 A. Yes.

2 Q. What is the date on the toxicology report  
3 from Mississippi?

4 A. September 17, 2015.

5 Q. September what?

6 A. 17, 2015.

7 Q. Thank you.

8 Do you know when you received that report?

9 A. No, I have no specific date when it was  
10 submitted to me. Hold on. No, I was thinking about  
11 photos that came in later. No, I cannot tell you the  
12 date when I received it from Mr. Edwards.

13 Q. In your report, which is your letter of  
14 December 5, 2016 to Mr. Edwards, did you make any  
15 reference at all to the toxicology report you had  
16 received?

17 A. No, I don't believe so.

18 Q. Did you make any reference at all to the  
19 toxicology report from Mississippi?

20 A. No, I see no specific reference.

21 Q. Isn't that something you would normally do,  
22 make reference to the toxicology information and use  
23 that as part of your analysis in your report?

24 A. I would if I felt that it was relevant. If  
25 I felt that it had played any role in leading to the

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1 death, of course I would include it because it would  
2 be a substantive, highly relevant component of such a  
3 report. If it is of no consequence, then I might not  
4 refer to it.

5 Q. Would it be your practice not even to  
6 reference the fact it had been done?

7 A. I cannot tell you. Much of the time I will  
8 reference it, sometimes for the reasons I just stated  
9 I would not.

10 The other thing here is, I think you already  
11 asked me when did I receive all of those things. I'm  
12 just wondering, and I said I don't recall when I  
13 received everything, including the autopsy report  
14 from Mississippi, of which the toxicology report is  
15 an integral component.

16 So I'm not sure if I had it at that time. I  
17 probably did have it because I, of course, discussed  
18 in conclusions of my report whether LSD was a cause  
19 of death or contributed to the death. So I can't be  
20 certain.

21 But as I've already said, those  
22 toxicological findings from the same laboratory,  
23 National Medical Services, on the report, on the  
24 original autopsy report, I find nothing there that is  
25 of substantive significance to my analysis of the

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1 case, specifically in determining the cause of this  
2 man's death.

3 Q. Does the Mississippi toxicology report give  
4 an LSD concentration, does it report an LSD  
5 concentration?

6 A. Yes, it does.

7 Q. Would you look at page 4 of your report  
8 dated December 5, 2016.

9 A. Yes.

10 Q. Next to the last -- well, three paragraphs  
11 from the bottom, second sentence, you state, I do not  
12 find any LSD concentration reported for Mr. Troy  
13 Goode.

14 Did you make that statement?

15 A. Yes. And I'm referring to the NMS report  
16 that I had received, that is correct.

17 Q. Did you not have the Mississippi toxicology  
18 report?

19 A. My answer is as I gave it two minutes ago, I  
20 kind of think I did not because I did not refer to it  
21 at all, but I cannot be absolutely certain because I  
22 don't have the date when I received that material.

23 Q. You made a conclusion about LSD without  
24 knowing the concentration of LSD in Mr. Goode's body  
25 at the time of death, didn't you?

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1           A.     That indeed may be possible.   Again, I  
2     referred to the NMS report which I had received.

3           Q.     Other than your report which we've marked as  
4     an exhibit regarding the autopsy, Exhibit No. 2, did  
5     you make any notes pertaining to the autopsy?

6           A.     No.

7           Q.     Did you take any photographs?

8           A.     No.

9           Q.     Any videotapes?

10          A.     No.   I dictate -- no, sorry.   Video, no,  
11     there are no videos.

12          Q.     Is it typical to take photographs at the  
13     time of autopsy?

14          A.     That varies from one office to another.  
15     Some offices, the larger medical examiner coroner's  
16     offices routinely take photos.

17                 In my case when photos are deemed relevant,  
18     they are taken usually by the state police or  
19     detectives attending the autopsy.   Sometimes I will  
20     take photos myself in private autopsies when they are  
21     relevant.   If the photos are not going to be  
22     relevant, I do not take photos.

23          Q.     Did you write any letter reporting your  
24     findings other than the December 5, 2016 letter to  
25     Mr. Edwards?

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1 A. No, I have no such letter.

2 Q. Tell me if you recognize that document.

3 A. This looks like the report that I submitted  
4 to Mr. Edwards. Yes, it appears to be exactly the  
5 same thing.

6 Q. What is the date on that letter?

7 A. September 28, 2015.

8 Q. Is that your letter?

9 A. Yes.

10 MR. EDWARDS: May I ask where you got this?

11 MR. PHILLIPS: It's in the Sun Life records.

12 MR. EDWARDS: Preliminary reports are not  
13 discoverable under the federal rules. I believe  
14 that's what that is.

15 BY MR. PHILLIPS:

16 Q. Is this your report regarding your findings  
17 pertaining to Mr. Troy Goode?

18 A. Yes. It appears to be exactly my report. I  
19 don't see any changes. Number of pages, jumping to  
20 the end. Yes, it definitely came from me, and it  
21 appears to be the same.

22 Q. So when you told us earlier that you didn't  
23 reach a conclusion as to the cause of death until  
24 maybe end of November, early December 2016, was that  
25 an error on your part?

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**30**

1           A.     Yes. Obviously, then I had reached a  
2 conclusion in September. Of course that explains why  
3 Mr. Edwards was making the public statement that he  
4 did.

5           Q.     Do you know why this is designated work  
6 product at the top?

7           A.     Yes. I submitted it to Mr. Edwards for him  
8 to look at to see if there are any mistakes, any  
9 errors, whether there was something that I had not  
10 referred to. That's the reason it was sent to him.

11          Q.     Was this report, and I'm referring to the  
12 one dated September 28, 2015, was it in any way  
13 designated as a preliminary report or draft report?

14          A.     Well, referred to as work product. So to me  
15 that's synonymous with a draft report or a  
16 preliminary report or privileged, confidential.  
17 Those terms are used by me synonymously to  
18 characterize it as not the final written report.

19          Q.     Is there any significant difference between  
20 the letter of September 28, 2015 and your letter of  
21 December 5, 2016?

22          A.     No. I think I've stated a couple of times  
23 already here today that my fast perusal, it is  
24 exactly the same. I see no difference at all in  
25 anything. Spacing looks to me to be exactly the same

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1 thing. No, it looks to me to be exactly the same.

2 MR. GASS: Are you both looking at December  
3 reports?

4 MR. EDWARDS: This is September.

5 MR. GASS: And the one he was looking at?

6 MR. EDWARDS: December.

7 BY MR. PHILLIPS:

8 Q. The autopsy that you did on July 23, 2015,  
9 how would it differ from the autopsy that was  
10 performed by you as the first autopsy?

11 A. I don't know what you mean how it would  
12 differ. Obviously, the organs have been resected  
13 internally, brain and thoracic, abdominal organs. So  
14 reopening those lines of incision, you don't see the  
15 organs in situ.

16 External examination doesn't differ, what  
17 somebody says they see and what I see; but as far as  
18 the outside of the body is concerned, except for a  
19 little bit of early discoloration or so on, but  
20 basically the same, not exactly.

21 And then not seeing the organs in situ  
22 obviously is different than the original autopsy.

23 MR. DILLARD: I'm sorry, what was the date  
24 of that autopsy?

25 THE WITNESS: My autopsy?



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1 MR. DILLARD: Yes, sir. Was it the July 20?

2 THE WITNESS: July 23.

3 MR. EDWARDS: July 20 was the State of  
4 Mississippi autopsy.

5 BY MR. PHILLIPS:

6 Q. So when you received the body, had the  
7 organs been removed from the body?

8 A. Yes.

9 Q. So the organs came to you separate and apart  
10 from the body?

11 A. Well, no, not separate. They're with the  
12 body.

13 Q. But they had been removed from the body?

14 A. But they had been detached from their  
15 respective soft tissue moorings.

16 A couple of things that I did that had not  
17 been done, I removed the testes. I also removed --  
18 as I recall, made a couple of additional incisions.  
19 And then I also dissected musculature in the back,  
20 the paravertebral musculature and soft tissues, and I  
21 also removed the spinal cord. Otherwise, the organs  
22 had been detached and submitted.

23 Q. Could you just list for us, please, the  
24 organs that had been removed before the body came to  
25 you?

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1           A.    Brain, lungs, heart, liver, kidney,  
2 pancreas, adrenal gland, bladder, prostate, spleen.  
3 Those are the organs that are removed.

4           Q.    Why didn't you go to Mississippi to do the  
5 autopsy since the body was there?

6           A.    I always have the body sent to me. It is  
7 preferable for me to do the autopsy here. And I  
8 always ask for the body to be sent to me, either  
9 driven or sent by air.

10                   It also is less expensive for the attorney,  
11 but that's not my main reason or concern, but I  
12 always do point that out to the attorney. But I have  
13 bodies sent to me not that often, but several in the  
14 course of the year every year. And they come to me,  
15 most of them are from the areas around here where  
16 they can be driven, but a couple or more will be sent  
17 by air during the course of a year.

18           Q.    You didn't find any indication in your  
19 analysis of the lung tissue of any pulmonary disease,  
20 did you?

21           A.    No. Nothing that I could determine. As  
22 I've already mentioned, both in the report and  
23 discussing it today, tissue showed early autolysis,  
24 decomposition, so there's some things of a specific  
25 microscopic nature that might not be discernible, but

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1 I did not find anything grossly such as a tumor or  
2 infarct or emphysema, did not find anything like  
3 that.

4 Q. No evidence of asthma?

5 A. Well, I cannot tell you in terms of a severe  
6 asthma producing some bronchiectasis or even  
7 emphysematous change, the answer is I did not.

8 Whether there was some evidence  
9 microscopically of the bronchial tree, I cannot  
10 determine that because of early decomposition that  
11 would change the mucosal appearance, that is the  
12 lining, the mucosa of the airways.

13 Q. Did you find any ocular petechial  
14 hemorrhages?

15 A. Externally on the conjunctiva, I did not and  
16 I did not remove the eyes. But I saw no evidence of  
17 -- you said ocular, didn't you?

18 Q. Yes, sir.

19 A. No, I saw no evidence of injuries to the  
20 eyes.

21 Q. Did you find any facial petechial  
22 hemorrhages?

23 A. No.

24 Q. Did you find any pleural petechial  
25 hemorrhages?

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1 A. No.

2 Q. Were there any rib fractures?

3 A. Yes, there were -- well, no. I say here the  
4 bony thorax appears to be intact on palpation except  
5 for the postpartum incision. No, I saw no evidence  
6 of rib fractures.

7 Q. Did you know the Mississippi medical  
8 examiner reported rib fractures?

9 A. Yes, sir, I came to know that later on, and  
10 I think they attributed that to resuscitation.

11 Q. Did you conclude that there were rib  
12 fractures present or did you disagree with the  
13 finding that there were rib fractures?

14 A. I've already told you that I did not find  
15 rib fractures. The second part of your question, I  
16 have no disagreement. They would appear to be the  
17 kinds of fractures that we see many times in people  
18 who have been resuscitated, right third through fifth  
19 and through the seventh.

20 So no, I would not disagree with that,  
21 especially when they say no associated soft tissue  
22 hemorrhage. I would agree with that.

23 Q. When you do a private autopsy as you did on  
24 July 23, 2015 on Troy Goode, what is the charge for  
25 doing that?

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1           A.     \$3,850 for the autopsy. And then -- that's  
2 my charge. Then if they want toxicology then I  
3 charge them whatever the amount is that NMS charges.  
4 I think that may be \$800, and then the transportation  
5 costs.

6                     Mr. Edwards sent a check for \$6,475, and the  
7 covering letter indicated that that was for autopsy,  
8 toxicology and transportation of the decedent. My  
9 charge is \$3,850 for a private autopsy.

10          Q.     In the report that you prepared dated  
11 December 5, 2016, the initial section, and I'm not  
12 talking about the autopsy report, doctor, I'm talking  
13 about your letter to Mr. Edwards dated December 5,  
14 2016.

15                     Do you have your letter to Mr. Edwards dated  
16 December 5, 2016 in front of you?

17          A.     I do.

18          Q.     The information in the first five paragraphs  
19 of the clinical summary, did that information come  
20 from Mrs. Goode?

21          A.     Well, it came to me from Mr. Edwards. I  
22 cannot tell you where he obtained it. I had no  
23 contact in any way by letter or phone with  
24 Mrs. Goode. So everything I received came from  
25 Mr. Edwards.

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1           Q.    Do I understand you then to say that you  
2 never talked to Mrs. Goode?

3           A.    I have not talked with her, never have  
4 talked with her.

5           Q.    And you haven't received any information in  
6 writing or otherwise from Mrs. Goode about the events  
7 of July 18?

8           A.    No. I think that one of the time lines  
9 submitted as I recall referred to information from  
10 Mrs. Goode, but again transmitted to me via  
11 Mr. Edwards, not directly to me.

12                   But my recollection is that one of the time  
13 lines, because I received a couple of different time  
14 lines, I just have a recollection that something was  
15 according to Mrs. Goode.

16                   So I'm sure that some of the information  
17 came from her via Mr. Edwards, but not in personal  
18 handwriting.

19           Q.    Look at the September 28, 2016 letter you  
20 wrote to Mr. Edwards, please. Do you see at the top  
21 of page 2 you cite the source for the preceding  
22 statements as being Mrs. Goode?

23           A.    Yes.

24           Q.    But you didn't communicate with Mrs. Goode  
25 directly?

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1           A.    I told you, sir, I have never spoken with  
2 Mrs. Goode in my life.

3           Q.    The information in the clinical summary, did  
4 you assume those facts to be true?

5           A.    Yes. And I had collateral information, as I  
6 have already referred to by way of time lines, I also  
7 had the police report. So the overall scenario is I  
8 think pretty consistent from the different sources,  
9 whether there's a difference in the specific isolated  
10 fact or difference in a specific minute or so, that,  
11 I cannot attest to; however, my recollection is that  
12 I found nothing of any significant inconsistency  
13 among the various chronological reports and summaries  
14 as to the events that transpired.

15                I believe that what I did receive was  
16 sufficient to portray a picture for me that was  
17 sufficient to arrive at conclusions and opinions.

18           Q.    In your December 5, 2016 report, you make a  
19 statement on page 2 about the summary of Mr. Goode's  
20 clinical history submitted by Mr. Tim Edwards.

21           A.    What page was that?

22           Q.    Page 2, sir, three paragraphs from the  
23 bottom.

24           A.    Yes.

25           Q.    Do you have a copy of the clinical summary

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1 that Mr. Edwards submitted to you?

2 A. Do I have a copy?

3 Q. The statement in the report says, the  
4 summary of Mr. Goode's clinical history submitted by  
5 Mr. Tim Edwards, and then you go on to say what it  
6 indicates. I'm looking for that document that you  
7 reference in your letter.

8 A. Well, they would be probably more than one  
9 document by that time. I had received copies of the  
10 hospital record, I had received the police report.  
11 So those are the things that I referred to submitted  
12 by Mr. Edwards. Everything that I got from him is  
13 here.

14 Q. What I'm trying to understand, doctor, is  
15 if, besides the medical records, was there something,  
16 some kind of summary?

17 A. Yes. Here's a summary right here.

18 Q. Page 2 of this document says at the top  
19 summary of clinical history. Am I right, sir, right  
20 here?

21 A. Yes. Here's another one, by the way.

22 Q. Are there any other summaries of the  
23 clinical history you were provided besides these two  
24 that you've given me?

25 A. Here's another one.



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1 Q. Are there additional ones in your files?

2 A. No. That appears to be everything. Wait,  
3 here's another one. Something may be duplicative.

4 Then I got this statement of facts, looks  
5 like a legal document. So those are the things that  
6 I received.

7 Q. Are these the items to which you make  
8 reference in your report when you refer to the  
9 summary of the clinical history submitted by  
10 Mr. Edwards?

11 A. Yes, collectively.

12 MR. PHILLIPS: Let's mark these collectively  
13 as the next exhibit.

14 MR. UPCHURCH: Mr. Phillips, are there five  
15 documents in that collective exhibit?

16 MR. PHILLIPS: Yes, there are five different  
17 things stapled separately.

18 (Deposition Exhibit No. 4 was marked for  
19 identification.)

20 BY MR. PHILLIPS:

21 Q. There's reference in your report I believe  
22 to a videotape. Did you get any videotape of what  
23 happened out on Goodman Road?

24 A. No.

25 Q. In the September 28, 2015 letter, next to

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1 the last paragraph on page 2 you cite as a source  
2 attorney and video at scene. Do you see that?

3 A. Yes.

4 Q. Were you provided a video of what happened  
5 at the scene?

6 A. No.

7 Q. And you've never reviewed one?

8 A. I have not seen a video, no.

9 Q. In your December 5, 2016 report, on page 4,  
10 what's listed there at the top beginning with  
11 abrasions, contusions, down through hemorrhage into  
12 left there at the end, is that the summary of your  
13 gross findings at autopsy?

14 A. Well, where is the autopsy report, do you  
15 have it there?

16 Q. Yes, sir.

17 A. Yes, it appears to be identical listing.

18 Q. And then the following sentence that begins  
19 29 H and E stain slides in your report, that is your  
20 general summary of your analysis of the slides;  
21 right?

22 A. Yes.

23 Q. Because you told us, Dr. Wecht, that there  
24 was no indication of cause of death on your gross  
25 findings and no indication of cause of death on the

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1    microscopic findings, does that mean that your  
2    conclusion about cause of death is based on history?

3        A.    Based on history, what we call a clinical  
4    pathological correlation.

5        Q.    Can you tell us when you received the  
6    medical records that you reviewed in this case?

7        A.    No, I do not have a covering -- wait, I'm  
8    sorry. Here I have a note from Mr. Edwards dated  
9    August 10, doctor, here are Troy's medical records  
10   from his primary care physician.

11            That email is dated August 10, 2015. So I  
12   guess I would have received it -- well, it's email,  
13   so I received it that day.

14        Q.    Did that transmittal include the records  
15   from Baptist Hospital or just records from his  
16   primary care physician?

17        A.    This looks like only from the physician. It  
18   does not appear to include the hospital record. The  
19   hospital record came separately, and I cannot tell  
20   you the time on that.

21        Q.    I'm interested in trying to determine if we  
22   can when you received the Baptist records from the  
23   visit of July 18, 2015.

24        A.    I cannot tell you when I received that. I  
25   do not have a covering note on that.

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1           Q.    Did you actually review the medical records  
2   from Baptist or did you rely upon the clinical  
3   summaries provided to you by Mr. Edwards and his  
4   office?

5           A.    I had records from Mr. Edwards, information  
6   from Mr. Edwards. Here is an August 17, 2015 email  
7   from Mr. Edwards referring to reports from the  
8   Southaven Police Department. So I had those, because  
9   there's a covering note on that.

10                The autopsy report from the original  
11   pathologist. I cannot tell you specifically when I  
12   received the Baptist OneCare Hospital record, whether  
13   I had that or not. There is no covering note on  
14   that, so I cannot tell you about the hospital record,  
15   when I received it.

16           Q.    Whenever you received those hospital  
17   records, did you review them or did you rely upon the  
18   summaries of those records provided to you by  
19   Mr. Edwards and his office?

20           A.    No, I reviewed them, I reviewed everything  
21   that has been sent to me. Once again, just to make  
22   it clear, if I found anything of an inconsistent  
23   nature of any significance, I would certainly tell  
24   you.

25                There are different things, references here

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1 or there, but for me as I have reviewed all these  
2 records and as I have analyzed and interpreted them  
3 for my purpose, I find nothing that is inconsistent.

4 Obviously, some things are more detailed  
5 than others, but the scenario is the same, it doesn't  
6 change from one report to another.

7 Q. Did you review any depositions taken in this  
8 case, doctor?

9 A. No.

10 Q. You have been an editor for different  
11 journals, haven't you?

12 A. Yes. A member of the editorial board or  
13 board of editors, not the editor. I'm the editor on  
14 some things, but mostly on the editorial boards.

15 Q. I was thinking about the section on page 29  
16 of your CV that's labeled professional publications,  
17 editorial positions.

18 A. Yes.

19 Q. And then you have a series listed there.

20 A. Yes.

21 Q. When you hold an editorial position in  
22 connection with some journal or publication, what  
23 responsibility do you have?

24 A. You're sent articles to review and then you  
25 send back your analysis, whether it's accepted,

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1     whether it needs to be revised, any comments and  
2     suggestions, that's what you do as a member of an  
3     editorial board of a professional journal in my  
4     fields of legal medicine and forensic science.

5           Q.     Do you have any responsibility to ensure  
6     that the publications in those journals are based  
7     upon valid research?

8           A.     I review what's sent to me.  If you're  
9     asking me do I go back and check every citation and  
10    reference, no, I do not do that.  I review the  
11    article and submit my comments.

12          Q.     When you review an article, do you determine  
13    if the conclusions and statements in there are  
14    scientifically sound in your field?

15          A.     I usually make a comment or so on.  The  
16    kinds of comments, the extent of the comments will  
17    vary from one paper review to another.

18          Q.     What is the American Journal of Forensic  
19    Medicine and Pathology?

20          A.     It's the publication of the National  
21    Association -- well, I don't know if it still is.  It  
22    used to be the publication of the National  
23    Association of Medical Examiners.  It may still be.  
24    I know there's still an affiliation.

25                 But it is a professional publication.  It

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1 started off I know as the official publication of the  
2 National Association of Medical Examiners. I think  
3 it is now an independent journal with some  
4 affiliation, but I think I have to pay separately for  
5 that now, as I recall. I don't think it comes with  
6 my dues.

7 Q. You have been on the editorial board for  
8 that publication, haven't you?

9 A. Yes.

10 Q. Are you still? I think it was page 29 of  
11 the CV where I saw that, doctor.

12 A. These are a list of articles by me.

13 Q. May I help you?

14 A. Here, I have the editorial list.

15 Q. Page 29 of that document.

16 A. Yes, right. What is the name of that?

17 Q. The American Journal of Forensic Medicine  
18 and Pathology.

19 A. Yes. It says here 1979 to the present, so I  
20 am still a member of that journal.

21 Q. Do you regularly meet with that board to  
22 provide input or regularly review articles for them?

23 A. No, I do not meet with them. And I cannot  
24 say that I regularly provide -- they come in quite  
25 infrequently as I recall for that particular journal.

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1 I have several journals for which I review  
2 articles. My recollection is for that one that I  
3 don't get many articles to review.

4 Q. Do you read that journal yourself regularly?

5 A. I go through it when I receive it, yes.

6 Q. Do you refer to it occasionally in your work  
7 and rely upon it?

8 A. I do not recall a specific reference, but I  
9 incorporate and collocate information from various  
10 journals as well as other informational sources. I  
11 don't in some way delineate and separate these things  
12 in my mind. They just all go into my brain and come  
13 out whenever applicable.

14 I sometimes will refer to a specific  
15 journal. I do not recall the last time I referred to  
16 that journal specifically in any kind of a report.

17 Q. Is the American Journal of Forensic Medicine  
18 and Pathology a reliable authority?

19 A. Well, all journals are reference sources.  
20 It's difficult to answer your question about a  
21 reliable authority. People differ. Of course you  
22 see that in letters to the editor almost all the time  
23 with people expressing different opinions. And then  
24 sometimes years later an article that shows that  
25 something is incorrect or needed to be changed



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1 significantly.

2 So I'm not waffling on this. I can't tell  
3 you when you say authoritative; it's a respected  
4 journal, a respected editor, a respected professional  
5 organization and so on.

6 Is it authoritative? Articles express views  
7 of the authors. Does that make it authoritative? It  
8 is certainly, if it's been peer-reviewed, then it's a  
9 respected article, but you may disagree with it.  
10 That happens all the time in all kinds of  
11 professional publications, including scientific ones,  
12 let alone things in the realm of law and political  
13 science and politics and other things which are much  
14 more subjective.

15 But in my field of forensic science and my  
16 field of legal medicine, there are differences of  
17 opinion on things. And so, not to say that this  
18 journal or this article says this and therefore that  
19 is the authority; it doesn't work that way.

20 Q. So can there be disagreement among  
21 reasonable pathologists about a cause of a particular  
22 patient's death?

23 A. Yes.

24 Q. Is the American Journal of Forensic Medicine  
25 and Pathology peer-reviewed -- are the articles in

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1     there peer-reviewed?

2             A.     Yes, I believe they are.

3             Q.     Is it a widely used journal?

4             A.     Well, all the members in name get it, and I  
5     can't tell you how many other people, I have no  
6     knowledge of that. But if you are a -- well, it used  
7     to be that you all get it, every member of name  
8     received it. Now it's a fair amount of money. I  
9     can't tell you. I still get it, I pay that extra  
10    money. I can't tell you, but probably most by far of  
11    named members I'm sure do subscribe to the journal,  
12    but I can't tell you if it's 100 percent.

13            Q.     Is it generally a trustworthy journal?

14            A.     My answers would be the same as to  
15    trustworthy, authoritative. I don't know what you  
16    mean by trustworthy. You know, it's a series of  
17    articles that have been reviewed by people, and they  
18    set forth their opinions.

19                    But it is not as if putting something down  
20    in writing makes it a definitive, unassailable  
21    nature.

22                    I'll tell you very simply, like I always  
23    say, forensic medicine, forensic pathology is not an  
24    absolute science; it's not physics, mathematics or  
25    chemistry or arguably astronomy. So there are

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1 differences of opinion, as I'm sure there will be in  
2 this case. I'm here to express my opinion, sir, and  
3 I'm prepared to do that.

4 Q. You wouldn't pay to receive a journal that  
5 you thought was untrustworthy, would you?

6 A. I don't know what you mean by untrustworthy.  
7 I don't use that word. You asked me before about  
8 authoritative, that's usually a word that is more --  
9 I pay to receive it to learn what people have to say  
10 about various matters. Some of them are very  
11 esoteric, things of an extremely rare nature.

12 It's just something that you do if you're  
13 active in the field from my perspective to try to  
14 keep abreast of things because you don't get new  
15 textbooks every year.

16 Q. What is the Journal of Forensic Sciences?

17 A. That's the publication of the American  
18 Academy of Forensic Sciences.

19 Q. Are you a member of that academy?

20 A. Yes.

21 Q. Have you served on the editorial board for  
22 this publication?

23 A. Yes. Not now, not for some years, but I had  
24 been on the editorial board of that publication.

25 Q. Is that a journal that you read regularly?

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1           A.    I receive it and I read through it, yes.

2           Q.    Is it widely used in your field?

3           A.    Again, it goes to all the members of the  
4 American Academy of Forensic Sciences, and that's the  
5 largest forensic scientific group in the country I  
6 believe. So the people in the various scientific  
7 specialties and subspecialties get that.

8                   The American Academy of Forensic Sciences is  
9 comprised of about I think eight or nine sections now  
10 and the different forensic scientific fields, so it's  
11 a panoply, it's a potpourri of different forensic  
12 scientific specialty areas.

13          Q.    Is it a respected journal in your field?

14          A.    Yes. My comments are the same. The  
15 articles are peer-reviewed. And is it respected?  
16 Yes, respected. Are there statements and conclusions  
17 that one may differ with? Absolutely.

18          Q.    Are there any sources, whether they be  
19 journals or textbooks, in your field that you could  
20 identify for me as being a reliable authority?

21          A.    My answer would be the same for all of the  
22 journals in my field, exactly what I have told you;  
23 they're peer-reviewed articles, that means they have  
24 some credibility, that have been reviewed by two or  
25 more members of an editorial board, final review I

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1 guess coming from the editor-in-chief. So they're  
2 not considered to be things of a superficial,  
3 undocumented nature.

4 Some people rely more upon one journal than  
5 another perhaps. I certainly can't speak for all of  
6 my colleagues. There is no one journal that is -- I  
7 was going to say like the Bible, a lot of people  
8 don't accept the Bible either. So I can't say  
9 anything more than I have about these journals.

10 Q. What sources would you go to if you needed a  
11 reference work, what would be your?

12 A. I have a lot of textbooks on pathology and  
13 forensic pathology going back from different people,  
14 and I have various medical books and journal  
15 articles, and sometimes in cases attorneys will send  
16 me some things, too, that they may acquire.

17 And to a great extent I base things on my  
18 experience now of 55 years in forensic pathology.  
19 That plays a major role. Not as a matter of  
20 egocentricity, but in my 55 years for me and my  
21 20,000 autopsies that I have done and 40,000 others  
22 that I have reviewed, supervised or signed off on  
23 play a major role in leading me to conclusions and  
24 opinions on a particular case, whether it's an  
25 autopsy that I do or a consultation that I am

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1 reviewing.

2 Q. Is there a particular textbook to which you  
3 would make reference if you needed to consult one?

4 A. No. It varies. There are some --

5 Q. Is there a particular journal that you would  
6 reference if you needed to reference a journal?

7 A. No. The same answer I gave you. I will  
8 grab different things, for example, there's some  
9 books on neuropathology, there's some books on liver,  
10 there are books that relate to specific organ  
11 systems, and then you got other books in the realm of  
12 clinical pathology, plus the journals you have  
13 mentioned and many other journals.

14 Q. In your report of December 5, 2016 you did  
15 not cite any specific medical literature, did you?

16 A. No.

17 Q. Does that mean that you do not intend to  
18 cite or rely upon any specific medical literature in  
19 this case for your opinions?

20 A. No, I would not say that. I may -- I'm sure  
21 that I have read things and am relying upon them that  
22 I am aware of, and I most likely did go back to one  
23 or more books or articles as I was preparing this  
24 report, I have no specific recollection, if I felt  
25 that some statement I was making -- well, in this

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1 case I would say for example that, yes, in my report  
2 where I refer to a specific number I think at the end  
3 of my report about quantities -- let me see that.

4 Q. Are you looking for your December 5 letter?

5 A. Yes, my report.

6 MR. McINTOSH: I want to state for the  
7 record that I am exiting the deposition.

8 A. Here on page 4, it gives some specific  
9 numbers, I'm sure I got that from an article or a  
10 book somewhere. If I give a specific number like  
11 that, I referred to the specific quantities of LSD.  
12 I would not have known, I doubt that I would have had  
13 that in my mind, but let's say I get a case next week  
14 or next month, I have a fairly good memory, I may  
15 remember the number so the next time it may be coming  
16 from my mind. In this case I believe that I would  
17 have gotten those numbers from some article. I don't  
18 believe I would have had those numbers in my mind.

19 Q. Is there any particular medical literature  
20 or article that you can tell us you consulted with  
21 regard to the LSD opinions on page 4 that you're  
22 referencing?

23 A. I know there are articles on LSD, and I  
24 think I definitely read one or two articles. I  
25 cannot give you the authors' names. Several people

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1 have written about LSD.

2 And of course something else, too, that I  
3 referred to for numbers, I received a copy of a  
4 report submitted to Mr. Edwards from a recognized  
5 expert in the field of LSD, Dr. David E. Nichols,  
6 Ph.D., N-i-c-h-o-l-s. He gives specific numbers and  
7 he gives specific references to published papers. So  
8 I had the benefit of that also in referring to LSD.

9 Q. Did you rely upon Dr. Nichols' report to  
10 form your opinions?

11 A. No. My opinions were the same insofar as  
12 whether or not LSD caused the death. I did not need  
13 or rely upon Dr. Nichols' report. I am a forensic  
14 pathologist, and he is not. I found his report very  
15 illuminating and very erudite, but I did not need his  
16 report, I did not rely upon his report to arrive at  
17 the conclusion that I did vis-a-vis the arguable role  
18 of LSD in leading to Mr. Goode's death.

19 Q. What is the date of his report, the copy  
20 that you have?

21 A. January 11, 2016.

22 Q. I may not have understood your answer to  
23 this question, so forgive me if I'm repeating myself,  
24 you have not cited in your report a specific article  
25 or piece of literature; correct?



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1           A.    Yes.

2           Q.    Do you intend in this case in conjunction  
3 with any opinion you give to cite a specific journal  
4 article or textbook?

5           A.    No.  If I were testifying today I would give  
6 the answers that I've already given you, so I would  
7 not have a specific name.  It may be that Mr. Edwards  
8 will want me to refer to a specific article based  
9 upon the opinions I've given, the quantitative  
10 numbers I have expressed and so on, in which case I  
11 would do so.

12                   But let's say I were testifying today, my  
13 answers would be, as I have given you, that I have no  
14 specific article I'm referring to, but I have  
15 acknowledged that I did acquire specific quantitative  
16 numbers relative to LSD toxicity as referred to in my  
17 report.

18           Q.    You didn't in the section on positional  
19 asphyxia make any reference to the literature even  
20 generally, did you?

21           A.    No.

22           Q.    Has Mr. Edwards or anybody else provided you  
23 any articles for you to review in conjunction with  
24 this case?

25           A.    No, not that I recall.

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1           Q.    Have you published anything yourself  
2           pertaining to positional asphyxia?

3           A.    I don't recall. I know I've dealt with this  
4           and commented on it hundreds and hundreds of times.  
5           I think I probably have. I would have to go through  
6           -- one just caught my eye right here now,  
7           Investigation and Analysis of Police-Related Deaths,  
8           No. 56 in my CV at the Arnold Markle Symposium, Henry  
9           C. Lee Forensic Science, University of New Haven.

10          Q.    Was that a lecture or publication?

11          A.    That's a publication based upon a lecture.

12          Q.    Is there a citation given there for that?

13          A.    Yes. Published in the proceedings of that.  
14          I think that any article here which talks about  
15          police-related deaths, there's another one I gave at  
16          the American College of Forensic Examiners, I  
17          remember that one, in Branson, Missouri, that it  
18          would definitely have included reference to that.

19                I know that there are others. And I have  
20          written about this in my textbook, in my own book, so  
21          I know that I've written about this because I've been  
22          involved in these cases.

23          Q.    Let me try to ask a better question.

24                I'm not asking about lectures that you may  
25          have given. I'm asking about publications that would

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1 appear in peer-reviewed journals. Have you submitted  
2 any publications to peer-reviewed journals on the  
3 topic of positional asphyxia?

4 A. I do not know offhand if I've had any  
5 submitted to a peer-reviewed journal. I have had  
6 many published in association with lectures given at  
7 various meetings. They would not have been  
8 peer-reviewed.

9 Q. Have you conducted any research or testing  
10 regarding positional asphyxia?

11 A. No.

12 Q. Have you submitted any publication to a  
13 peer-reviewed journal regarding LSD?

14 A. No.

15 Q. Excited delirium?

16 A. No. Well, no, I do not believe so, no.

17 Q. What is the name of your textbook that you  
18 make reference to?

19 A. Forensic Pathology in Civil and Criminal  
20 Cases.

21 Q. And you would not acknowledge your own  
22 textbook as a reliability authority, would you?

23 A. No, people will disagree with me, some  
24 people. So my answer for my own book is the same as  
25 I have expressed with regard to other people's books

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1 and articles. These are my opinions. Much of it is  
2 hard science which would not differ from one book to  
3 another, but there are variations. And then there  
4 are areas then which are more subjective.

5 Q. Are you familiar with a book called the  
6 Handbook of Forensic Pathology by Vincent DiMaio?

7 A. I'm familiar with a book by Dr. Vincent  
8 DiMaio. I didn't recall it as a handbook. I thought  
9 it's a bigger book. So I don't know that I have a  
10 handbook. I know Dr. DiMaio has a couple of books or  
11 more. So I'm familiar with the books that he has  
12 published, that he has written, yes.

13 Q. Do you refer to Dr. DiMaio's books on  
14 occasion?

15 A. I probably do. I think I have one of his  
16 books. And as I say, I'll just grab a book.  
17 Sometimes I'll look something up in two or three  
18 books.

19 Q. Have you, in fact, cited Dr. DiMaio's book  
20 in testimony in other cases?

21 A. I do not know. It is certainly possible  
22 that I've done so, but I can't remember specifically.  
23 I can't tell you.

24 Q. Is Dr. DiMaio a respected expert in your  
25 field?

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1           A.     Yes.

2           Q.     Are you familiar with Forensic Pathology, a  
3 text whose primary author is Dr. David Dolinak?

4           A.     David?

5           Q.     Dolinak.

6           A.     Dolinak?

7           Q.     Yes, sir.

8           A.     No, that one I do not know at all, neither  
9 the name of the book nor the author, Dolinak, no.

10          Q.     What is the Journal of Legal and Forensic  
11 Medicine?

12          A.     Which one is that, of Legal and Forensic  
13 Medicine? I'm trying to remember which organization  
14 publishes that. I know the name, but I'm confused as  
15 to -- can you tell me, I don't know which  
16 organization -- I'm familiar with that name, I just  
17 don't know which professional organization publishes  
18 that.

19          Q.     Is that a journal to which you make  
20 reference?

21          A.     Again, I think it's a journal that I  
22 receive. And my answer would be the same as I have  
23 expressed regarding other journals.

24          Q.     So you think it's one that you receive and  
25 regularly review?

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1           A.    I believe that it sounds like one of the  
2 journals that I receive.

3           MR. UPCHURCH:  Mr. Phillips, I need a brief  
4 break when you come to a good stopping point.

5           MR. PHILLIPS:  I should have told the doctor  
6 that when we started, should you need a break, I will  
7 be happy to give you one.  Mr. Upchurch has baled us  
8 all out, so we'll take a break now.

9           (Whereupon, a short recess was taken off the  
10 record.)

11 BY MR. PHILLIPS:

12          Q.    Would you locate the toxicology report from  
13 Mississippi, please?

14          MR. EDWARDS:  You say the toxicology report,  
15 there are actually two from Mississippi.  Which one?

16          MR. PHILLIPS:  Just get them both.

17          THE WITNESS:  Yes, I have that report.

18 BY MR. PHILLIPS:

19          Q.    I'm looking specifically for page 3 of 5 on  
20 the tox report for Mississippi, there's a reference  
21 comment No. 5.  Do you see that?

22          A.    Yes, page 3 of 5, yes.

23          Q.    Reference comment No. 5?

24          A.    Yes.

25          Q.    Would you read that, please?

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1           A.     "LSD (lysergic acid diethylamide) subclavian  
2 blood. LSD is a U.S. DEA Schedule I substance with  
3 no medical use. It is generally classified as a  
4 hallucinogen or psychedelic drug and may produce  
5 illusion, both auditory and visual. Physiological  
6 effects are primarily sympathomimetic, and may  
7 include madrasas, hyperthermia, seizures, panic and  
8 paranoid reactions.

9                     Flashback reactions are not uncommon in the  
10 experienced user. Effects may develop in as little  
11 as 15 minutes and generally last no more than eight  
12 hours but in rare cases may proceed or exceed 12  
13 hours.

14                    Blood concentrations of LSD between 4 and 6  
15 ng/mL are usually seen one to two hours after the  
16 usual psychedelic dose; however, levels as high as 16  
17 ng/mL have been reported.

18                    Death due to the pharmacological effects of  
19 LSD is rare, with most of this occurring as a result  
20 of LSD-induced suicide and accidental trauma."

21           Q.     Do you agree with what you just read?

22           A.     Yes.

23           Q.     You've made reference in your report to the  
24 fact that Troy Goode took LSD on July 18, 2015;  
25 correct?

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1 A. Yes.

2 Q. What impact did LSD have on Troy Goode?

3 A. It caused him to be become hallucinogenic.  
4 He was clearly hallucinating and suffering from the  
5 effects of LSD. I think it's referred to  
6 colloquially as a bad trip.

7 Q. The erratic behavior that is described in  
8 your report, is that the result of LSD?

9 A. Yes.

10 Q. The reference in your report to his feeling  
11 claustrophobic and getting out of the car twice,  
12 pacing in circles saying I don't know what to do, I  
13 don't know what to do, is that all attributable to  
14 his LSD ingestion?

15 A. Yes.

16 Q. Does marijuana in any way potentiate the  
17 effects of LSD?

18 A. Not to my knowledge. Marijuana is  
19 pharmacologically characterized as a mild  
20 hallucinogen. I'm not aware of any references to any  
21 kind of synergistic effect. I have not encountered  
22 it myself in any of my cases.

23 It's an interesting question because, as  
24 I've already said, marijuana has a mild  
25 hallucinogenic effect. It is theoretically possible



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1     that it could contribute a little bit, I just don't  
2     know of any study. I can't answer that in a  
3     definitive way.

4           Q.     Does marijuana produce a hallucinogenic  
5     effect?

6           A.     Well, I told you it's a mild hallucinogenic.  
7     I'm not aware, from what I know and hear and read  
8     about marijuana that it produces anything like what  
9     was manifested by Mr. Goode, not at all. I've never  
10    heard of anything like that among marijuana users.

11          Q.     In your report with reference to Mr. Goode's  
12    condition in the emergency room you say that he  
13    appeared to be extremely agitative and combative. Is  
14    that related to his LSD ingestion?

15          A.     I think it is, along with an extremely  
16    uncomfortable physical position of being hogtied over  
17    a prolonged period of time, of some difficulty in  
18    breathing easily. Primarily I think the effects are  
19    due to LSD, but I think definitely enhanced and  
20    aggravated by those physical circumstances.

21          Q.     You state in your report in the ER he was  
22    screaming uncontrollably and disrupting the entire  
23    department. Is that, too, related to LSD ingestion?

24          A.     My answer would be the same, primarily due  
25    to LSD but also due to the hogtied position, which

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1 makes it difficult to breathe, to the overall  
2 physical situation in which he found himself.

3 But basically and primarily due to LSD with  
4 those aggravating enhancing factors.

5 Q. You state further he appeared floridly  
6 psychotic. Is that, too, from his narcotic  
7 ingestion?

8 A. Yes. I think those things which could be  
9 considered psychotic are primarily due to LSD.

10 Q. He stated "I don't know how to explode". Is  
11 that something you also attribute to his LSD  
12 ingestion?

13 A. Well, it's a statement that he made as  
14 reported to me. I think, again, my answer is the  
15 same. It's all part of his reaction to LSD. It's  
16 part of the overall hallucinatory state in which he  
17 found himself.

18 Q. Were you aware that he had used LSD on at  
19 least two prior occasions, one in 2008 and one in  
20 2013?

21 A. No, I don't think I know anything about past  
22 experience.

23 Q. Would that make any difference to any  
24 conclusion you reach in the case?

25 A. No. There's nothing of a lingering nature

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1 at all; once it's over with LSD it's over. So no,  
2 that would be of no relevance to me.

3 Q. Can LSD ingestion cause excited delirium?

4 A. I have to start by telling you that I do not  
5 accept excited delirium as a scientific diagnosis, so  
6 therefore I can't answer that question.

7 But the second part of the answer is that if  
8 you take the effects of LSD producing these kinds of  
9 hallucinogenic delusional thoughts, expressions and  
10 physical actions, then they can lead to a state of  
11 great excitement.

12 I'm not aware, I'm trying to think of the  
13 people who do believe in such a diagnosis, whether  
14 they -- I can't speak for them because they related  
15 cocaine and stimulants. I can't answer that question  
16 for the reasons I've given.

17 Q. What, does acronym NAME stand for?

18 A. National Association of Medical Examiners.

19 Q. Doesn't that organization except excited  
20 delirium?

21 A. I believe they do.

22 Q. Are you a member of that organization?

23 A. Yes.

24 Q. Isn't excited delirium accepted and  
25 discussed?

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1           A.    Yes, by many people, and rejected by others.

2           Q.    So it is accepted in the forensic pathology  
3 literature generally, isn't it?

4           A.    I can't tell you generally. I'm telling you  
5 that I'm aware that it has been accepted by some  
6 groups and by many individuals and by some people who  
7 have written books on it, and others do not accept  
8 it, it's been rejected with some very strong  
9 derogatory statements by various people, Canadian  
10 Medical Association, Royal Canadian Police, I think  
11 some of the European groups and so on.

12                   But I am very much aware that it has been  
13 accepted by NAME and by other people who are  
14 experienced, competent forensic pathologists.

15           Q.    Does the forensic pathology literature  
16 recognize that LSD ingestion can cause excited  
17 delirium?

18           A.    That's exactly the question you asked me  
19 before. I gave my answer. And I'm not sure if the  
20 people who believe in excited delirium have related  
21 this to LSD. I don't know. I'm not telling you no.  
22 I'm telling you I don't know.

23                   The cases that I've dealt with in which  
24 excited delirium has been proposed, expounded, they  
25 have related almost always to people who have had

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1 cocaine or amphetamine or the central nervous system  
2 stimulants. I just can't think offhand whether they  
3 have related it to hallucinogenic compounds. I'm not  
4 saying they haven't, but I don't remember.

5 All the references that I have encountered  
6 have been to cocaine, amphetamines, MDMA, Xstasy,  
7 those kinds of drugs. But it may well be that others  
8 have related it to LSD, I just don't know.

9 Q. Can LSD ingestion cause a cardiac  
10 arrhythmia?

11 A. Well, yes, we see it in this case, it  
12 produced supraventricular tachycardia, which is an  
13 arrhythmia. That's the kind of arrhythmia I think  
14 that has been referred to by people writing about  
15 LSD.

16 Q. Can LSD injection produce a cardiac  
17 arrhythmia that can lead to death?

18 A. No, because, to get to the heart of the  
19 matter, the reports show somewhere I've seen from 9  
20 to 11 percent of Americans have ingested LSD one or  
21 more times.

22 Using the higher number, some people have  
23 estimated as many as 31 million Americans have used  
24 LSD, and there are just no deaths, a couple have been  
25 reported, it's quite arguable in the literature

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1 whether they were scientifically shown to have been  
2 attributed.

3 That's why I said a handful or so, not to  
4 quibble, one or two or three or four, literally a  
5 handful; and many authors have said none, others say  
6 maybe the one case or so on.

7 I have never seen LSD listed in any of the  
8 autopsy reports, about 40,000, rough estimate, that I  
9 have seen death certificates and/or autopsy reports  
10 nor have I ever listed it myself, and I've already  
11 told you what is set forth in the literature.

12 So the answer, therefore, to your question  
13 of a fatal cardiac arrhythmia is no, because that  
14 indeed would be the mechanism of death were it to  
15 occur as a result of LSD from cardiac arrhythmia.  
16 And I just have not experienced that.

17 Q. Can LSD indirectly lead to death?

18 A. Indirectly, cases of people committing  
19 suicide or being killed accidentally under the  
20 influence of LSD, I can understand that, and I'm  
21 aware of some reported cases.

22 In fact, gee, I remember a long time ago the  
23 U.S. government had somebody they were experimenting  
24 on who jumped out of a building or so on in New York  
25 City. So the answer indirectly, yes.

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1           Q.    In your report of December 5, 2016 you list  
2   a couple of questions that you answer. The first is  
3   on page 4 and the second is on the top of page 5.  
4   Did somebody suggest these questions to you?

5           A.    No. These are questions that I pose to  
6   myself and respond based on what I think is the  
7   essence of the matter as it relates to me.

8           Q.    So nobody raised with you concern about LSD  
9   use before you prepared your report?

10          A.    Oh, I'm sure the question had been raised in  
11   the discussion with Mr. Edwards. It was no secret.  
12   I didn't come up with something that hadn't been  
13   thought of.

14                But the answer to your question is, I mean,  
15   obviously it was a question on Mr. Edwards' mind.  
16   But did he state that question in that form to me?  
17   No. These are my words.

18                Obviously, I knew that Mr. Edwards would  
19   like to know and would need to know what my thoughts  
20   were in terms of LSD and Mr. Goode's death.

21          Q.    Was it also made clear to you that he was  
22   interested in your opinion about whether positional  
23   asphyxia played a role?

24          A.    Yes, sure. We had talked about that. By  
25   that time I had the information about the hogtied

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1 position.

2 So once again, my answer is exactly the  
3 same, the question is in my words, the objective and  
4 the purpose of the question and the answer thereto is  
5 something that I obviously recognized to be the  
6 essence of the case, of course.

7 Q. You made reference earlier to some  
8 difficulty breathing that Mr. Goode had?

9 A. Yes.

10 Q. Can you point me to anything in the medical  
11 record at Baptist Hospital that would indicate he was  
12 having difficulty breathing?

13 A. Well, yes, the respiratory rate as I recall  
14 rose, the blood pressure dropped -- I mean, the blood  
15 pressure first it rose and then it dropped. The  
16 respiratory rate raised. And the oxygen level  
17 dropped to about 90 percent.

18 So that is a clear manifestation of some  
19 respiratory difficulty. 90 percent is not  
20 acceptable. Healthy, normal guy, I'm sure Mr. Goode  
21 walking around before all of this happened he would  
22 have had a much higher oxygen level. So that is the  
23 most specific diagnostic reflection of respiratory  
24 compromise.

25 Q. Did you see any assessment done by anybody



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1 in the emergency department who actually saw  
2 Mr. Goode where they indicated he was having trouble  
3 breathing?

4 A. I don't recall a specific statement by --  
5 they did not assess under pulmonary, chest, "too  
6 combative to assess fully". And pulmonary/chest,  
7 there's no comment there at all.

8 The respiratory rate was 24. The oxygen  
9 level is 90 percent, which I have already referred  
10 to. So do I see a statement about respiratory  
11 difficulty? No, they did not listen with a  
12 stethoscope, they did not do an auscultation test,  
13 they said that they were unable to do that.

14 Q. But wouldn't a trained health care  
15 professional observing a patient be able to discern  
16 difficulty breathing without putting a stethoscope on  
17 the chest?

18 MR. EDWARDS: Object to the form.

19 THE WITNESS: The answer is yes, but a  
20 trained health care professional person would do a  
21 lot of other things, too, like somebody is in your  
22 hospital and he's in a hogtied position and you're  
23 seeing these laboratory changes is to remove him from  
24 the hogtied position.

25 I'm not trying to be sarcastic or clever

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1 here. What I'm saying is in answer to your question,  
2 what would trained hospital personnel do, again,  
3 trained hospital personnel, you don't see a lot of  
4 the injuries that were found by the pathologist in  
5 Mississippi and by me that are reflected in the  
6 hospital record.

7 So I'm not here to make comments on any  
8 aspect of the case that might deal with medical  
9 malpractice, but I'm pointing out when you ask me in  
10 this case about observations and comments by health  
11 care professionals, that's part of my answer, the  
12 record speaks for itself, what they saw and what they  
13 stated and what they did not comment upon or observe.  
14 So I don't know what to tell you.

15 BY MR. PHILLIPS:

16 Q. Are you not in this case offering any  
17 opinions on the standard of care, are you?

18 A. No, I am not.

19 Q. And your practice doesn't include seeing  
20 living patients, does it?

21 A. No.

22 Q. And it doesn't include assessing living  
23 patients, does it?

24 A. It doesn't include what?

25 Q. Assessing living patients.

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1 A. Assessing, no.

2 Q. Did you mention in your report of December  
3 5, 2016 the important things that you saw in the  
4 medical records?

5 A. No, I do not believe. Let me see. No, the  
6 only comment of a tangential nature is on page 3, in  
7 that 8:49 to 9:22 block where I state Troy was in a  
8 hospital room with police, still in a hogtied  
9 position, and I give the source from the police  
10 incident report. Then I say police, not medical  
11 personnel, advised medical personnel that Troy was no  
12 longer breathing.

13 So that's the only reference that I see to  
14 anything in my report about the hospital. As I've  
15 said, in answer to your question today and I'm sure  
16 in my mind at that time I was not approaching this as  
17 I would do in a report dealing with medical  
18 malpractice.

19 One thing, sir, I just noticed on that page  
20 3 also up above, I do say that triage reflected  
21 oxygen saturation of 90 percent and respiration of  
22 24, so that is a reference to the hospital record.

23 Q. You noted that Mr. Goode was said to be  
24 screaming and yelling while in the emergency  
25 department; right?

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1           A.     Yes.

2           Q.     Isn't that some indication of ability to  
3 breathe and ventilate?

4           A.     No.  If I understand your question, as a  
5 matter of fact the opposite might be true.  When  
6 you're having difficulty in breathing, that is one of  
7 the most -- well, that is the most fundamental  
8 voluntary/involuntary physiological phenomenon, the  
9 need to breathe; the panic that ensues when you are  
10 having a compromise of oxygen.

11                     And so then the yelling, the exhortations  
12 are likely to be greater than, for example, if you're  
13 having an experience with some pain or some other  
14 kind of distress.

15                     The inability to breathe is the most  
16 frightening, horrific situation that a human being  
17 finds himself in, that an animal finds itself in, but  
18 we'll talk about human beings.

19                     So in that situation it is well known in  
20 these cases of the combativeness, of the yelling and  
21 the screaming, it's just a terrible situation in  
22 which you are not able to breathe properly.

23           Q.     But you have to have air in your lungs to be  
24 able to yell and scream, don't you, doctor?

25           A.     Absolutely, but at no --

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1           Q.    To do that repeatedly indicates you're able  
2   to fill your lungs with oxygen, yell and scream, fill  
3   your lungs with oxygen, yell and scream; right?

4           A.    I would accept the statement except when you  
5   say fill. To take in some oxygen and to breathe and  
6   be able to verbalize, my answer is yes. But that  
7   doesn't mean that you're filling, that you're  
8   removing the CO2 and taking in oxygen in the normal  
9   fashion. It just means, sure, and I at no time ever  
10   have I thought or commented or believe that his mouth  
11   and nose were closed and that he was unable to do any  
12   breathing.

13                It's a matter of the compromised nature of  
14   the normal respiratory physiological function, not a  
15   matter of physical or mechanical asphyxiation  
16   blocking the airway.

17           Q.    Did you see in the medical record any  
18   reference to any abnormal color in this patient  
19   before he coded?

20           A.    No, I do not recall any reference to any  
21   kind of discoloration.

22           Q.    Is it your conclusion that Mr. Goode died of  
23   a cardiac event?

24           A.    Yes. It's my conclusion that he died as a  
25   result -- everybody dies when the heart stops

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1 beating. I believe that he died as a result of  
2 cardiorespiratory failure.

3 I believe that he died as a result of  
4 compromise of normal breathing process as a result of  
5 his prolonged hogtied position anywhere from an hour  
6 and 20 to an hour and 30 minutes as I calculate the  
7 numbers, a portion of which also included even I  
8 think five circular straps over his body, too, in the  
9 EMS vehicle.

10 So I believe that that would be the final  
11 cause of death, cardiorespiratory failure brought  
12 about by respiratory compromise, then we see evidence  
13 of cardiac effect with the supraventricular  
14 tachycardia noted a couple of times and then  
15 reflected on a portion of ECG strip, although I don't  
16 read ECG strips, but just taking their interpretation  
17 of what I understand there's a limited ECG reading.

18 So that's the answer to your question, that  
19 to me is the cause of death here. This was an  
20 otherwise healthy individual with no problems other  
21 than a chronic asthmatic condition, which I  
22 understand was reported, I've been told that  
23 Mrs. Goode did mention that to the police, that her  
24 husband had asthma, although as you have asked me, I  
25 cannot myself state that as an anatomical diagnosis

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1 based upon my autopsy.

2 But otherwise, this is a healthy man. And  
3 I've given you my thoughts on LSD and on excited  
4 delirium based upon my experience dealing with these  
5 kinds of matters of positional asphyxiation, this is  
6 my opinion which I express with a reasonable degree  
7 of medical forensic scientific certainty.

8 Q. You don't interpret EKGs, do you?

9 A. I prefer the English, ECG.

10 Q. Sorry.

11 A. That's okay. No, I've already said that,  
12 no, I don't interpret them. I already volunteered  
13 that. I just refer to the interpretation by somebody  
14 who read that.

15 Q. Mr. Goode's death is also consistent with  
16 excited delirium leading to a cardiac arrhythmia,  
17 isn't it?

18 A. No, it is not. So again, I'll preface my  
19 response by saying that I don't accept excited  
20 delirium as a scientifically documented diagnosis.  
21 But let's take it hypothetically.

22 No, number one, you do not have something  
23 that is found in these cases of hyperthermia; number  
24 two, most, not 100 percent, but almost all of these  
25 cases involve people who have been -- who have taken

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1 a central nervous system stimulant, cocaine most  
2 frequently, amphetamine, methamphetamine, MDMA, Xstasy  
3 and so on, sometimes with high levels of alcohol. We  
4 don't have that.

5 And then also the cases that I've dealt  
6 with, they have been cases in which somebody placed  
7 in the -- somebody who dies as a result of what  
8 others accept as excited delirium, and these have  
9 always interestingly been police-related deaths in my  
10 experience somehow, it doesn't seem to happen with  
11 other people, only when they have an altercation with  
12 a policeman, that they die then and there. They  
13 don't die an hour and a half later.

14 So for those reasons, just dealing  
15 hypothetically, again, that if this were to be  
16 considered as excited delirium, my response is as  
17 I've given it, no hyperthermia, no precipitating  
18 pharmacological agent, and the delayed death, I do  
19 not believe this would meet the criteria of excited  
20 delirium for those who believe in excited delirium.

21 Q. Do you see any symptoms that Mr. Goode had  
22 that are consistent with excited delirium?

23 A. Yes, for those who believe in excited  
24 delirium; combativeness, excitation, screaming,  
25 yelling, yes, those are things that are reported in



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1     such cases.

2           Q.     Have you ever concluded that any person's  
3     death was related to excited delirium?

4           A.     No, because I do not believe in that  
5     diagnosis.

6           Q.     There was no weight on Mr. Goode's back  
7     while he was in the emergency department, was there?

8           A.     No, none that I saw reported.

9           Q.     And in the emergency department he was not  
10    strapped down; right?

11          A.     He was not.

12          Q.     Can one have positional asphyxia by being  
13    restrained in some manner other than prone maximal  
14    restraint?

15          A.     Prone maximal restraint. Yes, not all cases  
16    involve a total hogtied position. Some have a  
17    partial binding, not necessarily complete, wrist to  
18    wrist or ankle to ankle. And also in many -- some,  
19    many, I don't know the percentage breakdown, but in  
20    many cases, probably -- well, in many of the cases,  
21    too, you have additional involvement of one or more  
22    people pressing down on the victim's back, neck,  
23    back, you have that as an additional component in  
24    many such cases.

25          Q.     That doesn't exist here?

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1           A.    Not to my knowledge.

2           Q.    Have you ever evaluated a case where there  
3 was a concern about positional asphyxia and concluded  
4 that the patient did not die of positional asphyxia?

5           A.    I don't know. The answer is, I can't give  
6 you a specific case. I may have, but I cannot refer  
7 to a specific case.

8           Q.    How long does it normally take for a patient  
9 to asphyxiate?

10          A.    Oh, that will vary greatly. The answer is,  
11 total cessation for whatever reason of oxygen, we're  
12 talking about four to six minutes of oxygen reservoir  
13 in the brain, you may wind up with some damage, but  
14 that's usually the figures that people give.

15                It can vary. Some people in frigid  
16 conditions, even in ice water, can last longer.  
17 Forget the people who train for this, pearl divers,  
18 some of them are absolutely incredible.

19                But the average person, you know, we talk  
20 about four to six minutes. Now, that's total, total  
21 blockage in whatever fashion, you're smothered by a  
22 landslide, I had some of those cases not a couple  
23 weeks or so ago, young man just working with his  
24 father in a ditch and everything just came down upon  
25 him.

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1           So if you have partial compromise, it will  
2     take longer. Well, look at a carbon monoxide case  
3     for example, it may take a long time before you die,  
4     before you reach a level in which the oxygen supply  
5     is just inadequate for your body's needs.

6           So it varies. There's all kinds of  
7     situations. You have to deal with each one based  
8     upon the circumstances of that case.

9           Q. We talked earlier about the American Journal  
10    of Forensic Pathology of which you have served on the  
11    editorial board. I want to ask you about a  
12    particular article which appeared in Volume 19,  
13    September 1998, on pages 201 through 205.

14           The title of the article is Reexamination of  
15    Custody Restraint Position in Positional Asphyxia.  
16    Let me pass you a copy here so you can look at what  
17    I'm talking about.

18           Look at the last sentence of the first  
19    paragraph under the abstract on page 1. Do you see  
20    that?

21           A. Yes.

22           Q. Would you read that last sentence, please?

23           A. "We conclude that the hogtied restraint  
24    position by itself does not cause respiratory  
25    compromise to the point of asphyxiation and that

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1 other factors are responsible for the sudden death of  
2 individuals placed in this position."

3 Q. Do you agree with that statement?

4 A. No.

5 Q. Is that statement inconsistent with the  
6 opinion you've reached in this case?

7 A. Yes, except for the last part, by the way.  
8 The last part is actually consistent when they see  
9 sudden deaths. Now, of course they don't give a  
10 temporal definition or parameters, but that's an  
11 interesting comment and consistent with what I said a  
12 little while ago about excited delirium, the  
13 suddenness of such a case.

14 But taking the overall statement otherwise,  
15 yes, I disagree. And this gets to what we talked  
16 about an hour or two ago, whenever, about journals  
17 and articles. I definitely disagree with this  
18 statement.

19 Q. Your position is that the maximum restraint  
20 position causes respiratory compromise; right?

21 A. Yes, indeed.

22 Q. And that's what this study expressly  
23 rejected; right?

24 A. That's correct. They disagree, and  
25 evidently their findings and statements have not been

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1     accepted either by the overwhelming majority of  
2     federal, state and local police agencies in the  
3     United States of America that specifically instruct  
4     their police officers not to place somebody in a  
5     hogtied position and certainly not to keep them in  
6     that position for any period of time.

7             So evidently this has not been accepted by a  
8     lot of other people, too, besides me.

9             MR. EDWARDS: Was this a study funded by the  
10    San Diego Police Department?

11    BY MR. PHILLIPS:

12            Q.    Is this a study that is peer-reviewed,  
13    doctor?

14            A.    I would imagine. I would believe that the  
15    article published in this journal had been  
16    peer-reviewed, yes.

17            Q.    What does that mean if it's been  
18    peer-reviewed?

19            A.    It means that two or more, but usually two,  
20    members of the editorial board -- well, not  
21    necessarily limited to the editorial board, but two  
22    other people, either on the editorial board or people  
23    in the same field of medicine or whatever, have  
24    looked at the article and expressed their opinions.

25            Q.    Look at page 7, the conclusions section.

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1           A.     Yes.

2           Q.     Read the last sentence, please.

3           A.     "Although restraints in general, in general,  
4     increase the psychological and physiologic stress on  
5     the individual, no evidence suggests that body  
6     position alone causes hypoventilation, respiratory  
7     compromise, or positional asphyxia in the hogtied  
8     custody restraint position."

9           Q.     Do you agree with that statement?

10          A.     Absolutely not. I myself have had cases in  
11     which, very famous case around here, Johnny Gamut,  
12     33-year-old guy, cases of healthy people with no  
13     disease at all, and I mean, no, I absolutely do not  
14     agree with this statement and this -- well, I won't  
15     repeat myself about all the other people and  
16     organizations and groups, including law enforcement  
17     with very specific guidelines and instructions that  
18     have been in place for years.

19                 In fact, it's now 2017, these guidelines,  
20     these instructions, most of them have now been  
21     adopted for now about a decade, it varies greatly.  
22     But this is not something that is brand new on the  
23     table.

24          Q.     This is a conclusion published by a well  
25     recognized journal in your field that's

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1 peer-reviewed, based upon research that's been done?

2 A. Yes, that's what the authors state.

3 Q. So this is a position that reasonable  
4 forensic pathologists can take; right, based upon  
5 this research?

6 A. I can't speak for anybody else. I've  
7 already answered you that I am well aware that many  
8 of my colleagues accept the phenomenon of excited  
9 delirium. I recognize that and --

10 Q. This has nothing to do with excited  
11 delirium. This has --

12 A. In a hogtied position.

13 Q. -- to do with that restrain causes  
14 respiratory compromise?

15 A. I'm sorry. That, I can't comment on. I'm  
16 sorry, I was jumping to excited delirium.

17 I don't know, when you say my colleagues,  
18 may I see that again? I can't speak for all forensic  
19 pathologists. I cannot answer your question. I  
20 think most forensic pathologists do believe that a  
21 hogtied position could lead to death. That is my  
22 belief. Can I cite you a source? Have I conducted a  
23 survey? No, I have not.

24 But I think that most of my forensic  
25 pathologists nowadays if they're confronted and given

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1 the information about a prolonged hogtied position  
2 that they would accept it. But I can't give you an  
3 article to refer to.

4 Q. This is a conclusion published in a  
5 peer-reviewed forensic pathology journal?

6 A. Yes. I do not recognize -- you'll see these  
7 are emergency room physicians. So they're speaking  
8 for themselves. My only comment is these are not by  
9 forensic pathologists. These are by emergency room  
10 physicians. Big difference.

11 Q. Given the fact that it's published in a  
12 forensic pathology journal indicates that peer  
13 reviewers reviewed it, thought it valid and accurate  
14 and worthy of publication; true?

15 A. Well --

16 Q. Is that true?

17 A. Well --

18 Q. Can you answer my question before you  
19 explain?

20 A. I'm going to answer. I'm going to give you  
21 the answer. You read something, and as a reviewer,  
22 validity based upon what they represented doesn't  
23 mean that you yourself believe that, but you believe  
24 it is something that has been validly analyzed by the  
25 authors and that it has a right, so to speak, of



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1     being published.

2                 I'm not equivocating on this. I'm just  
3     saying that you don't reject an article as an  
4     editorial board or other reviewer because you  
5     disagree with the conclusions. You review it to see  
6     does it have sufficient scholarliness, is it  
7     sufficiently and properly -- and the answer is yes,  
8     they did review it and whoever it was and they  
9     concluded that it was worthy of publication. That's  
10    what it connotes.

11                And then as you are aware, in the legal  
12    journals, let alone the lay public, that's where  
13    letters to the editor come in from people who  
14    disagree.

15                MR. PHILLIPS: Let's mark this article as  
16    the next exhibit.

17                (Deposition Exhibit No. 5 was marked for  
18    identification.)

19    BY MR. PHILLIPS:

20                Q. I want to show you an article from the  
21    Journal of Forensic Scientists 2007, Volume 2, No. 1.  
22    This is, again, a journal for which you have served  
23    as an editor or on the editorial board; correct?

24                A. Yes. I don't believe I was an editor, but  
25    on the editorial board, yes.

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1 Q. This is an article entitled Ventilatory and  
2 Metabolic Demands During Aggressive Physical  
3 Restraint in Healthy Adults; right?

4 A. Yes.

5 Q. The last sentence in the second paragraph on  
6 the left says what?

7 A. "However, a recent study reported that,  
8 although PMRP alone -- where am I? Sorry. I lost my  
9 place. Let me start again.

10 "However, a recent study reported that,  
11 although PMRP by itself resulted in a small,  
12 restrictive ventilatory pattern compared with seated  
13 measurements, there is no evidence of  
14 hypoventilation, hypercapnia or hypoxemia."

15 Q. Do you agree with that statement?

16 A. No.

17 Q. PMRP is defined early in the article as  
18 prone maximal restraint position?

19 A. Yes.

20 Q. And that's the position that Troy Goode was  
21 in?

22 A. Yes.

23 Q. So this article says, it's referring to a  
24 recent study that shows no evidence of  
25 hypoventilation, hypercapnia or hypoxemia; right?

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1           A.     That's correct, with healthy adults in an  
2     investigative setting, yes, that's correct. Not  
3     exactly what you have in a setting involving police  
4     and nor does it address the question of time, such as  
5     we have in this case.

6                 In fact, they talk about sudden death. If  
7     you look on page 173 under discussion, the first  
8     sentence again, although sudden death has occurred in  
9     individuals placed in the PMRP, on and on and on.

10                So once again we have the reference to the  
11    temporal component of so-called -- well, to these  
12    kinds of deaths. We see the use of the word sudden,  
13    even back on page 171 the right-hand side, the second  
14    sentence I see cases of sudden death of restrained  
15    individuals often involve those who continue to  
16    struggle after being restrained.

17           Q.     Let me direct you back to page 173. You  
18    started to read a sentence but you didn't complete  
19    it. Let's complete it. It's on the right-hand  
20    column under discussion, "although sudden death has  
21    occurred in individuals placed in PMRP, the cause of  
22    death and whether body position was a factor remain  
23    controversial".

24                 That's what the complete sentence says'  
25    right?

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1 A. Yes.

2 Q. Do you agree with that, that that is a  
3 controversial topic?

4 A. Do I agree that it's controversial? Yes, I  
5 would have to agree that it's controversial, yes.

6 Q. And on page 171 at the bottom there's a  
7 reference to a copyright by the American Academy of  
8 Forensic Scientists. Do you see that?

9 A. Yes.

10 Q. Is that the organization that publishes the  
11 Journal of Forensic Science?

12 A. Yes.

13 Q. Are you a member of that organization?

14 A. Yes.

15 Q. And have served on its editorial board?

16 A. Yes.

17 Q. Page 173 in the right-hand column, "prior  
18 studies in healthy subjects have found no evidence of  
19 significant hypoventilation when subjects were placed  
20 in PMRP".

21 Did I read at that correctly?

22 A. Yes.

23 Q. Do you agree with that statement?

24 A. Well, do I agree? I don't believe that  
25 they're telling a lie. I believe that their study --

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1 do I believe that it is a comparable situation? No.  
2 But I'm not suggesting that they made this up.

3 Q. You agree that there have been prior studies  
4 showing what they reference?

5 A. Well, yes. In fact, you just showed me a  
6 prior study some minutes ago. Yes, I agree that  
7 there have been such studies.

8 Q. And then it continues on 173, "our results  
9 in this study appear to support these findings".  
10 Right?

11 A. Yes.

12 Q. So this is yet another study consistent with  
13 prior studies that show no evidence of significant  
14 hypoventilation when subjects are in prone maximum  
15 restraint position; correct?

16 A. Yes, that is correct. What seems to be  
17 absent here, and I haven't had a chance to read the  
18 article, what seems to be absent here is the  
19 alternative explanation for the death.

20 I don't see anything talking about  
21 myocardial infarction, atherosclerosis of the  
22 coronary arteries, cerebral vascular accident,  
23 cerebral hemorrhage. I don't see anything like that.  
24 So they don't tell me how these people died.

25 Q. Look on page 175, the concluding sentence,

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1 if you would, please. Actually the next to the last  
2 concluding sentence, left-hand column.

3 A. Yes.

4 Q. "Based on these observations in healthy  
5 subjects, we conclude that PMRP in prone positioning  
6 with moderate weight force on the back do not in and  
7 of themselves restrict metabolic or ventilatory  
8 demands to any clinically important degree. As such,  
9 factors other than isolated ventilatory failure  
10 should be considered when evaluating deaths occurring  
11 in the setting of restraint in the field."

12 Did I read that correctly?

13 A. Yes, you read it correctly and --

14 Q. Do you agree?

15 A. No. My answer is the same as before. This  
16 is interesting that these authors don't tell us what  
17 the other things are that should be considered. I  
18 would love to know then what causes the death of a  
19 26- or a 33-year-old person in good health with no,  
20 no, pathological processes found at autopsy at all.

21 I would love to know then, tell me, what did  
22 they die from? Tell me, what did they die from? Was  
23 it a visitation from God? What did they die from?

24 And I have not seen that in this article, I  
25 have not seen it anywhere in all of these cases of

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1 excited delirium or the negated reports of people who  
2 have died while in a hogtied position.

3 They never tell me, gee, what caused the  
4 death. You die from something. And you usually die  
5 from cardiac arrhythmia when it happens like that of  
6 a sudden nature. That's the only thing that can  
7 cause sudden death. Forget about cyanide or  
8 strychnine or some poison like that.

9 The only thing that causes death is  
10 something that causes your heart to beat irregularly  
11 and then you set into motion a whole chain of events  
12 in which the brain is deprived of oxygen and then the  
13 brain controlling the lungs and heart doesn't do its  
14 job and the cycle worsens and that's it very fast, as  
15 quickly as it takes me to explain it.

16 But that's how you die. And there's no  
17 other way that you die. That's how you die. And  
18 tell me, tell me, gentlemen, tell me what did these  
19 people die from.

20 Q. May I have the article, please. It will be  
21 Exhibit No. 6.

22 (Deposition Exhibit No. 6 was marked for  
23 identification.)

24 BY MR. PHILLIPS:

25 Q. I'll show you an article now, doctor, from

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1 the Journal of Forensic and Legal Medicine published  
2 in 2013. The title of this article is The Effect of  
3 the Prone Maximal Restraint Position With and Without  
4 Weight Force on Cardiac Output and Other Hemodynamic  
5 Measures; correct?

6 A. Yes.

7 Q. This is yet another publication in the  
8 literature in the field of forensic pathology; right?

9 A. Yes. Again, submitted by emergency room  
10 physicians.

11 Q. But peer-reviewed, all of these articles  
12 that we've looked at are peer-reviewed, aren't they?

13 A. Yes, I believe so.

14 Q. And accepted for publication in forensic  
15 pathology journals?

16 A. Yes.

17 Q. Look on page 993.

18 A. Okay.

19 Q. Right-hand column, first full paragraph,  
20 "Previously, it had been postulated that the hogtie,  
21 hobble or the PMR-O position placed individuals at  
22 risk for asphyxiation from ventilatory compromise  
23 from so-called positional asphyxia. However, studies  
24 investigating the position have found that while PMR,  
25 and even just the prone position itself, results in a



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1 small restrictive pattern on pulmonary function  
2 testing, there are no studies indicating that the  
3 position leads to hypoventilation or hypoxia, and  
4 multiple studies indicating that there is no effect  
5 upon oxygenation."

6 Did I read it correctly?

7 A. Yes.

8 Q. Do you agree with that statement?

9 A. No. I accept the statement from the authors  
10 and referring to studies. Do I believe in what the  
11 statement sets forth? No.

12 Q. Yes, sir. That's a fair distinction. Let  
13 me refine my question a bit.

14 You do not dispute that there have been  
15 multiple studies indicating that there's no effect of  
16 the prone maximal restraint position upon  
17 oxygenation, you don't dispute that statement?

18 A. Right, I don't know the number, but no, I  
19 don't dispute it. You've already shown several of  
20 these today.

21 Q. And those findings of those multiple studies  
22 that we just referenced there in those two sentences,  
23 that's contrary to your opinion in this case; right?

24 A. Yes, that's right.

25 Q. This would be contrary to the basis of the

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1 opinion you hold in this case, wouldn't it?

2 A. Well, yes, except that I must point out to  
3 have some volunteers engage in an experimental  
4 situation, to be conducted right here in this room  
5 right now is an awful lot different from the  
6 psychological emotional state that we have with  
7 Mr. Goode and in other cases in which I, myself, have  
8 done autopsies where it was clear that the person  
9 died as a result of having been placed in that  
10 position.

11 Q. Look at page 994, please, in the right  
12 column. It's the paragraph just above -- it's on the  
13 right.

14 A. Wait a minute.

15 Q. 994.

16 A. I have it.

17 Q. It's the paragraph beginning "in summary".

18 A. Yes, I see it.

19 Q. It says, "In summary, our findings do not  
20 support the contention that PMR with or without  
21 weight force of up to 100 pounds results in a  
22 decrement in CO, carbon dioxide, sufficient to cause  
23 an inherent risk of cardiovascular collapse".

24 Is that what it says?

25 A. Yes, that's what it says. By the way, they

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1 have it CO, they probably mean CO -- anyway, just let  
2 it be, I'm not going to correct them editorially, but  
3 something's wrong. Anyway, I understand what they're  
4 saying. Yeah, go ahead.

5 Q. The last sentence of that paragraph --  
6 actually, the next sentence says, "These findings are  
7 consistent with field case reports in which similar  
8 sudden deaths occurred in non-prone and non-PMR  
9 positions".

10 Did I read that correctly?

11 A. Wait a minute. I kind of lost you. One  
12 second. Yes, that's right.

13 Q. Next sentence, "These findings are also  
14 consistent with a recent large prospective  
15 epidemiological study of police use of force in which  
16 prone position was not found to be associated with  
17 sudden death".

18 Did I read that correctly?

19 A. Yes.

20 Q. And you don't dispute that there was a large  
21 prospective epidemiologic study making that finding,  
22 do you?

23 A. No, if they cite it, I'm not aware of it,  
24 but they give you the reference. I accept the  
25 correctness.

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1           Q.    Then the last sentence of that particular  
2 paragraph, "as such, it appears another cause of  
3 cardiovascular collapse is more likely in these types  
4 than decreased CO secondary to prone position with  
5 weight force".

6                   Did I read that correctly?

7           A.    Yes.

8           Q.    Conclusions at the bottom of the page,  
9 "Cardiac output is not significantly affected by the  
10 PMR compared with the prone or supine positions, with  
11 without application of 50 to 100 pounds of weight  
12 force to the back".

13                   Did I read that correctly?

14           A.    That's correct.

15           Q.    You don't dispute that that's the conclusion  
16 and finding of this research that's published in this  
17 particular forensic journal, do you?

18           A.    That's right.  Once again I'm looking for  
19 the explanation for the people who died.  They don't  
20 tell that.

21                   The other thing is, you can do this with me  
22 at my age right now, the oldest person in the room,  
23 lying down on the ground and put 100 pounds of  
24 weight, let the young lady, our stenographer, she  
25 doesn't weigh much more than that, sit on my back,

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1 and I assure you I will not have a problem breathing.

2 It's a hell of a lot different than four or  
3 five cops around there that have me in the hogtied  
4 position. I can just imagine the language and the  
5 situation between the victim and the police. A  
6 little bit different.

7 That's the problem with all of these  
8 studies. Let's have a controlled study, Joe, you lie  
9 on the ground, Susan, lie on the ground, and we put  
10 some weight on you and so on. Boy, that is  
11 different, day and night.

12 MR. PHILLIPS: We'll mark this article as  
13 the next exhibit.

14 (Deposition Exhibit No. 7 was marked for  
15 identification.)

16 BY MR. PHILLIPS:

17 Q. We made reference earlier to Dr. Vincent  
18 DiMaio and his book on forensic pathology. Do you  
19 recognize this as the cover page from that book?

20 A. No. See, I don't have this book because I  
21 see a co-author Suzanna Dana. No, I don't have this  
22 book. I think I have a textbook by Dr. DiMaio, but  
23 this one I do not have.

24 Q. On page 169, I'm sorry, I don't have an  
25 extra copy of this, letter D says, "research by Chan,

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1 et al. determined that the original experiments were  
2 in error. He found that while placing an individual  
3 face down in the hogtied position following strenuous  
4 exercise, e.g. a struggle, did produce restrictive  
5 pulmonary functioning as measured by pulmonary  
6 function test. These results were not clinically  
7 relevant. There was no evidence of hypoxia".

8 Is that what letter D says.

9 A. Yes, I'm sure you read it. Yes, that's what  
10 it says.

11 Q. Do you agree with Dr. DiMaio's conclusion  
12 there?

13 A. Well, again, I'm accepting that he is  
14 quoting the article by Chan, et al. correctly. Do I  
15 agree with the findings? No, I do not.

16 Q. Then letter E on page 169 says, "Subsequent  
17 testing in which weights were applied to the thorax  
18 also did not produce clinically relevant decreases in  
19 pulmonary functioning. Thus, there is no proof that  
20 ordinary force placed on an individual by kneeling on  
21 them or lying across their body compromises  
22 respiration".

23 Did I read that correctly?

24 A. Yes, I'm sure you did. My comment is the  
25 same. Again, my other comments are also the same;

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1 what causes the death and how come all of the  
2 recognizable police agencies in the country,  
3 including the International Association of Police  
4 Chiefs, have issued orders not to place somebody in a  
5 hogtied position?

6 MR. PHILLIPS: We'll mark the DiMaio  
7 excerpts as the next exhibit.

8 (Deposition Exhibit No. 8 was marked for  
9 identification.)

10 BY MR. PHILLIPS:

11 Q. Would you agree, doctor, that there is a  
12 significant body of medical literature that disagrees  
13 with the conclusions that you've reached in this  
14 case?

15 MR. EDWARDS: Objection; asked and answered.

16 THE WITNESS: Yes.

17 BY MR. PHILLIPS:

18 Q. When you undertook your analysis of this  
19 case, did you make any survey of the scientific  
20 literature to see what the research, testing and  
21 publications had shown regarding whether positional  
22 asphyxia causes the problems that you attribute to  
23 it?

24 A. I did not conduct a specific extensive  
25 research because I was then, as I am today, familiar

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1 with these positions, not every one of the papers  
2 that you have presented to me, but I've been long  
3 aware of such findings. So I was well aware of that.  
4 I did not have to conduct any research to know that  
5 there are people who have other opinions.

6 Q. What current positions or jobs do you hold?

7 A. Well, I'm an independent person. I am a  
8 forensic pathologist. I do autopsies for district  
9 attorneys and coroners in four surrounding counties  
10 here in southwestern Pennsylvania, but I'm an  
11 independent contractor, I'm not on their payroll. I  
12 get paid for the work that I do.

13 I get a small, they give it nominally to the  
14 adjunct professors at the Duquesne University School  
15 of Law, to cover parking, I don't know, \$2,200,  
16 \$2,500. I think that's the only payment that I  
17 receive from anybody.

18 All the other work involves payment that I  
19 receive from coroners, district attorneys, private  
20 families for whom I do autopsies, like I did  
21 yesterday and will be doing again this afternoon, and  
22 for my consultations with attorneys in all kinds of  
23 cases, civil and criminal. So that's where my income  
24 comes from.

25 Q. Do you currently hold any position with any



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1     medical school?

2           A.     Yes.   I'm an adjunct professor of pathology,  
3     University of Pittsburgh School of Medicine, and I'm  
4     -- no, sorry.   Clinical professor of pathology,  
5     University of Pittsburgh School of Medicine; adjunct  
6     professor of epidemiology, Graduate School of Public  
7     Health, University of Pittsburgh.

8           Then I have several other faculty positions,  
9     but those are the ones that relate to -- well, no,  
10    there's another one at Carlow University, I'm a  
11    distinguished professor of pathology.   I don't know  
12    if you said medical schools.   That's not a medical  
13    school, it's a university, Carlow, distinguished  
14    professor of pathology at Carlow University.

15           I have three faculty appointments at  
16    Duquesne University, but they're not in pathology;  
17    they're law, health sciences and pharmacology  
18    toxicology.

19           Q.     We walked through these various articles  
20    earlier in the case.   My question to you at this  
21    point is as follows:   Can you cite to me any  
22    published peer-reviewed article that supports your  
23    position and conclusion in this case?

24           A.     I have no articles that I could cite to you  
25    at this time.   I believe there are, if Mr. Edwards

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1     were to find it necessary, I would look for those.  
2     As we sit here today I cannot cite you an article,  
3     but I know that there are such articles and such  
4     statements.

5             In fact, that of course is the very  
6     foundation that is the predicate upon which law  
7     enforcement agencies all over the country, at the  
8     federal, state and local levels, have adopted the  
9     policies that they have.

10            Q.    You read with me through the articles that  
11     we addressed that there was at one time some  
12     consideration that the prone maximal restraint  
13     position led to the problems that you described, but  
14     subsequent testing and research disproved that  
15     theory.  You read that with me, didn't you?

16            A.    I read what the authors say, and I disagree  
17     with that.  Here again, if that were to be true, how  
18     come there has not been any retraction, any recision,  
19     indeed any modification whatsoever of all of the  
20     promulgated guidelines to which I have referred  
21     several times here today?  It evidently has not  
22     reached those levels of law enforcement.

23            Q.    Is there a difference between a medical  
24     examiner and a coroner?

25            A.    Well, the difference is in most places the

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1 coroner -- by definition the coroner as traditionally  
2 acknowledged doesn't have to be a forensic  
3 pathologist. Medical examiners by definition in this  
4 country are to be forensic pathologists. So those  
5 are the differences.

6 Most coroner systems involve election, and I  
7 think all medical examiner positions involve  
8 appointments by some governmental agency.

9 Q. Do you currently hold the position of  
10 coroner anywhere?

11 A. No.

12 Q. When have you last held such a position?

13 A. January '06.

14 Q. What is the last coroner position that you  
15 held?

16 A. That's the last coroner position. I am the  
17 forensic pathologist for these four coroners, I have  
18 been for a couple of other coroners, too. But at the  
19 present time for these four coroners, I am their sole  
20 forensic pathologist.

21 Q. But the last coroner position you held would  
22 have been for Allegheny County?

23 A. Yes.

24 Q. How did it come to be that you stopped being  
25 the coroner of Allegheny County?

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1           A.     They adopted a medical examiner system by  
2     election in November of '05. And then I was  
3     appointed the medical examiner and resigned that  
4     month, in January of '06.

5           Q.     Why did you resign?

6           A.     If you want to get into on the record,  
7     you're going to pay for the next two hours. You open  
8     up that door, that's fine. I love to talk about it.  
9     I love to talk about it. But you're not going to  
10    open up the door and close it. I'm going to make  
11    this very clear that I know you cannot talk about  
12    this. If you want to talk about, we're going to do  
13    it, sir. I'm going to go into great detail.

14           I resigned because the federal government  
15    indicted me for 84 felony counts. And I'm going to  
16    go through every single point, okay, in which finally  
17    the 3rd Circuit Court of Appeals, three Republicans,  
18    said that the judge who handled the case had to be  
19    removed because he was biased. And it was turned  
20    over to another federal judge who ripped the U.S.  
21    Attorney's office apart, and all the charges were  
22    dropped completely in June of 2009.

23           Do you want to walk with me on the streets  
24    of Pittsburgh and see what the people of Pittsburgh  
25    think about me? Do you want to go down that road,

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1 sir, fine, we're going to go down that road  
2 politically.

3 I know and you know that you cannot bring  
4 this up in a court of law. I think it is despicable  
5 for you to open up this door. I thought you would  
6 behave like a gentleman. You have shown me that in  
7 truth you are not. You're like so many other defense  
8 attorneys, anything goes, anything goes at all.

9 It doesn't go here. You're in my territory.  
10 You're in my room. So you want to come up with this  
11 stuff, fine, we're going to deal with it. We'll go  
12 through whatever you want. We'll talk about the U.S.  
13 attorney who is so disagreed that she left Pittsburgh  
14 and it took her four years to get a job. We're going  
15 to talk about it all. Do you want to talk about,  
16 let's talk about. Don't play games with me.

17 Q. Did you ever practice as a lawyer?

18 A. Once I was in a court co-counsel, once I  
19 took a deposition, and once I took a case pro bono  
20 from the federal court to plead somebody guilty.

21 I was a member of a law firm, Wecht Law  
22 Firm, as a listed member, of counsel. Practicing are  
23 the three things that I have mentioned, and I think  
24 I've done a few little things for people as friends,  
25 maybe writing a will or so on. But no, I haven't

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1 practiced as a lawyer. I just have not had the time.  
2 I have kept up my legal license and have it to this  
3 day.

4 Q. Have you ever represented either party to a  
5 civil case as the lawyer yourself?

6 A. No.

7 Q. How about in a criminal case?

8 A. No.

9 Q. Your CV reflects that you are a member of  
10 the Association of Trial Lawyers of America; is that  
11 right?

12 A. I have been. It's been a long time, I think  
13 it's 10, 15, 20 years since I was a member, but I had  
14 been a member for many years.

15 Q. Do you know that to be an organization  
16 comprised of plaintiff's attorneys?

17 A. Yes.

18 Q. And you also were a member of the Medical  
19 Malpractice Committee of the American Association of  
20 Trial Lawyers of America?

21 A. I don't remember. If I was, I was. That is  
22 a committee, I don't recall ever being in the  
23 committee meetings. But if it's so listed, I was.

24 Q. It is, it's listed on your CV.

25 Were you a member of the Pennsylvania Trial

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1 Lawyers Association?

2 A. Yes.

3 Q. Is that an organization comprised of  
4 predominantly plaintiff's lawyers?

5 A. Yes. And I haven't been a member of that  
6 either -- I guess I dropped out of all of those about  
7 the same time. It should be reflected in my CV. I  
8 set it forth in the CV that I was a member of those  
9 organizations, but I know I'm safe in saying ten  
10 years, I'm pretty certain it would be 15 to 20 years.

11 Q. You're aware, aren't you, doctor, that there  
12 are professional associations for defense attorneys,  
13 civil defense attorneys?

14 A. Yes. And I was a member of the American  
15 Association of Hospital Attorneys, too, which is a  
16 defense organization, as I recall, for some years and  
17 haven't been a member of that organization for a long  
18 time. But yes, I know that there are defense  
19 organizations.

20 Q. Have you been to any seminars put on by the  
21 American Association of Trial Lawyers as it pertains  
22 to expert witnesses and how to be an expert witness?

23 A. Yes, I was. Back then in those years with  
24 ATLA, yes, I did attend and speak at several ATLA  
25 meetings way back in the '70s and '80s, maybe into

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1 the '90s. Yes, I did speak at several of those.

2 Q. Have you ever attended any other seminars or  
3 programs on how to be an expert witness in a medical  
4 case?

5 A. I haven't attended. Well, I've spoken at  
6 several meetings. I don't know what the exact titles  
7 were, and I've written about being an expert witness  
8 and what to expect several times. Again, they're all  
9 listed in my CV.

10 Q. Have you ever been convicted of any crime?

11 A. No.

12 Q. Have you ever pled guilty to any crime?

13 A. No.

14 Q. Have you ever had any adverse action taken  
15 on your medical license?

16 A. No.

17 Q. Have you ever had a complaint filed against  
18 you by any medical board, any licensing board?

19 A. No, not to my knowledge.

20 Q. Have you ever been fired from any position  
21 of employment you've held?

22 A. I already referred to the fact that I was  
23 asked to resign in January of 2006 from that position  
24 of medical examiner.

25 Q. Is that the only occasion?



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1 A. Yes.

2 Q. You don't have privileges at any hospital to  
3 treat patients, do you?

4 A. No. I'm not a treating physician. And my  
5 hospital -- the hospital where I was chairman of the  
6 department of pathology closed 1999, 2000. I have  
7 not had a hospital affiliation since that time.

8 Q. There are folks who do clinical pathology  
9 work, reviewing specimens on living patients and  
10 patients in hospitals?

11 A. Yes. And I did that through my five-year  
12 residency and then from 1962 to the year 2000, for  
13 those 38 years I did it at several hospitals. And  
14 I'm board certified in clinical pathology as well as  
15 anatomic and forensic pathology.

16 Q. As I understood your testimony, that part of  
17 your practice ended in the year 2000 sometime?

18 A. Yes. The hospital closed, the parent  
19 hospital closed so they closed the St. Francis  
20 Central Hospital, that's correct, in the year 2000.

21 Q. Have you ever had a civil suit filed against  
22 you?

23 A. I think there was one once, and then I was  
24 dropped out. It really involved my colleague, but I  
25 was named initially, and I don't know whatever

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1 happened, but I was dropped out of it. I was never  
2 deposed or anything. But I do recall one time that I  
3 was named at the beginning of a lawsuit.

4 Q. Do you think that's the only time you've  
5 been sued in a civil case?

6 A. Yes, when I was the chairman of the  
7 department of pathology, and the action was against  
8 the hospital and my colleague and they named me.  
9 That's the only case involving the medical field.

10 Q. What was it alleged that you did wrong in  
11 the civil case?

12 A. That I was chairman and therefore respondeat  
13 superior. My colleague was charged with having made  
14 a wrong diagnosis, and I was named also.

15 Q. Even though you personally didn't evaluate  
16 the specimen or make the report?

17 A. That's correct. My name was not on the  
18 report.

19 Q. Do you have a copy of your current fee  
20 schedule there in front of you, doctor?

21 A. Yes. It's right there.

22 Q. May I have this copy?

23 A. Yes. I brought extras.

24 Q. This is the fee schedule governing this  
25 particular case?

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1           A.     Yes.

2                   MR. PHILLIPS:  We'll mark it as the next  
3     exhibit.

4                   (Deposition Exhibit No. 9 was marked for  
5     identification.)

6     BY MR. PHILLIPS:

7           Q.     Do you have with you today the invoices  
8     showing the charges you made for your work in this  
9     particular case?

10          A.     Yes.

11          Q.     These invoices when taken together will show  
12     all of the fees that you've been paid up through the  
13     beginning time of the deposition today?

14          A.     Yes.

15          Q.     I see in here the check from my firm for the  
16     \$3,500 payment for today's deposition.  You got that;  
17     right?

18          A.     Yes.

19                   MR. PHILLIPS:  We'll mark the invoices as  
20     collective Exhibit No. 10.

21                   (Deposition Exhibit No. 10 was marked for  
22     identification.)

23     BY MR. PHILLIPS:

24          Q.     Your fee schedule indicates that there can  
25     be supplemental fees in given cases?

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1 A. Yes.

2 Q. Did that apply to this particular case?

3 A. No. The only payment was the original  
4 submission fee and then the payment for the meeting  
5 and the work with Mr. Edwards relative to the  
6 deposition.

7 Q. Is it your practice to require prepayment of  
8 fees?

9 A. Yes.

10 Q. For all stages of the case?

11 A. Well, yes, although not quite. I require  
12 submission or many times -- most of the time, always  
13 I guess -- well, I shouldn't say always, almost  
14 always with defense attorneys. I know that they  
15 don't have the payment, it's coming from their  
16 insurance company clients, and so I don't get the  
17 payment upon submission there. But there's the  
18 acknowledgement that they will pay. And then I  
19 require payment for depositions in advance.

20 Where I do not require payment in advance is  
21 in those cases that you referred to where I sometimes  
22 get supplemental materials of a substantial nature,  
23 lengthy depositions, investigative reports and so on,  
24 I do not charge an advance because I'm into the case  
25 and I get these things and I let it go. So anyway,

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1     that's what happens, but otherwise I do request  
2     payment in advance with everybody else pretty much.

3             Once in a while a governmental agency, yeah,  
4     governmental agencies, I don't get paid in advance  
5     when I testified, district attorneys and all my  
6     homicide cases, I don't get paid in advance. Those  
7     are all bills that are submitted afterwards.

8             Q.    Do you require attorneys who retain you to  
9     sign contracts?

10            A.    No. I do, when an attorney tells me that  
11     they can't pay, their client is going to pay or  
12     something, I do ask them to send me a letter to that  
13     effect. And where attorneys are appointed by the  
14     court or public defenders, I do ask them to send me a  
15     copy of the court order or the court's approval for  
16     payment of the fee. I do request that.

17            Q.    I didn't see in your materials any of the  
18     defense expert disclosures in this case. Have you  
19     been provided with those?

20            A.    No, I have not been.

21            Q.    Do you know Dr. Greg Davis?

22            A.    I know that he's a forensic pathologist. I  
23     don't know him personally.

24            Q.    Do you know that he is a forensic  
25     pathologist at the University of Kentucky?

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1           A.    Yes, I think that's where I thought he is,  
2   yes.

3           Q.    Is he a well respected forensic pathologist?

4           A.    As far as I know he is a respected board  
5   certified forensic pathologist. I have not had any  
6   dealings with him, any cases, but I accept him as a  
7   board certified respected forensic pathologist.

8           Q.    Do you know Dr. Gary Vilke, V-i-l-k-e?

9           A.    No, I do not know him at all. I know  
10   nothing about him, where he is or anything.

11          Q.    Did you notice he was one of the authors on  
12   some of the articles?

13          A.    Yes, I remember that name.

14          Q.    You didn't know he was one of the experts  
15   for the defense in this case?

16          A.    No. I don't know who the experts for the  
17   defense are.

18          Q.    Give me your best estimate of how many times  
19   you have been consulted as an expert witness in a  
20   legal case, whether it be criminal or civil.

21          A.    I would say, starting off in the early  
22   years, I would say I get about probably on average  
23   maybe three to four cases a month civil and criminal,  
24   some workers' comp. That's pretty much been the  
25   average. Yeah, I would say around there.

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1 I would tend to say about 36 to 50 in the  
2 course of a year combined. That does not include the  
3 cases that I do autopsies in where the district  
4 attorney subsequently calls me to testify. There are  
5 maybe a dozen of those a year. So that's the answer.

6 Q. Times how many years of doing this?

7 A. Well, I started in the fall of 1962 when I  
8 came back to Pittsburgh after finishing all my  
9 training. But gee, I don't know, a case or two and  
10 then a couple of cases a year, then a few cases more.  
11 So probably it wasn't until maybe half a dozen years  
12 later that I could talk about the kind of average  
13 number that I gave you. But for the first several  
14 years I had nowhere near that number.

15 Q. So if you were estimating for us the total  
16 number of times you've been consulted as an expert?

17 A. Consulted?

18 Q. Yes, in a case of litigation, what would  
19 that number be?

20 A. Consulted? Well, then if we go, let me say  
21 '67 to '17, because that's easy numbers. 33 and 17  
22 is 50. 50 times 35 is 1,750. Then probably it comes  
23 out to be a couple thousand cases, throw in the  
24 earlier years. So probably then rough numbers maybe  
25 2,000 to 3,000 since 1962.

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1 Q. How many times would you estimate you've  
2 given depositions in cases where you've been retained  
3 as an expert?

4 A. Only about an average maybe of three or four  
5 a year. So that would be, again, probably about 250  
6 to 300 depositions.

7 Q. How many times have you testified at trial  
8 approximately?

9 A. Well, I testify roughly about a dozen times  
10 a year for the district attorneys on the homicides  
11 that I do. Aside from that, testimony, maybe on  
12 average just now, two or three times a year. The  
13 overwhelming majority of cases insofar as my  
14 involvement is concerned do not wind up with me  
15 testifying.

16 Q. Give me your best estimate of the number of  
17 times you've testified at trial total?

18 A. At trial?

19 Q. Total, for all the years.

20 A. For all the years, again, excluding the  
21 homicide cases for district attorneys that are  
22 follow-ups to autopsies that I've done, how many  
23 times have I testified? There again, I don't know,  
24 250 to 350, something like that. I don't know.

25 Q. In the civil cases in which you've been



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1 consulted as an expert, can you help us understand  
2 what portion of those have been at the request of the  
3 plaintiff and what portion has been at the request of  
4 the defense?

5 A. What percentage of what, consultations?

6 Q. Yes, sir, in civil cases.

7 A. Well, that has varied. I would say for the  
8 first -- I would say up into the -- roughly, this is  
9 nothing fixed, but roughly probably through the 1980s  
10 it was about 85 percent plaintiff.

11 The 1990s to the present time it's been  
12 60-65 plaintiff and about 35-40 defense in civil  
13 cases consultant.

14 Q. Give me the same approximation with regard  
15 to the depositions you've given in civil cases, what  
16 percent for plaintiff, what percent for defense?

17 A. They would play out the same way. As I've  
18 said, there aren't that many depositions. So in the  
19 years up through into the 1990s, nine out of ten  
20 probably would have been for plaintiff.

21 1990s to the present time, probably when I  
22 have a deposition, it's probably about seven out of  
23 ten were for plaintiff and about three out of ten for  
24 defense. Something like that.

25 Q. How about trial, same question?

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1           A.     The same. I thought I gave you that. Oh,  
2     you want trial testimony. Again, gee, I just don't  
3     testify that much. Very little in civil cases. Very  
4     little. It's hard to give a percentage. So few  
5     cases.

6                     I'm trying to remember the last time I  
7     testified in court in a civil case, and I can't  
8     remember when that was. Again, it would be into the  
9     1990s when I did testify in court, probably about  
10    eight times out of ten would have been for the  
11    plaintiff and a couple times for the defense, as best  
12    as I can recollect.

13                    I never thought about it. So few cases in  
14    which I testify civilly that it's hard for me to come  
15    up with a percentage.

16           Q.     Before this case, have you ever been  
17    involved in a case at the request of Mr. Tim Edwards  
18    or his law firm before?

19           A.     I don't recall Mr. Edwards at all. I do  
20    recall the name Ballin. I think I had a case with  
21    Mr. Ballin, but I'm just not sure, but I think did.  
22    I don't remember what it was or whenever. The name  
23    is familiar.

24           Q.     Do you know how many cases you had for  
25    Mr. Ballin?

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1           A.    I think only one, as far as I believe, only  
2 one. I don't know what it was.

3           Q.    Have you ever been excluded as an expert  
4 witness by any court?

5           A.    No, not to my knowledge.

6           Q.    Have you ever been prohibited from giving  
7 any particular opinion in a given case, even though  
8 you may have been permitted to testify about other  
9 things? You look confused. Do you need me to  
10 rephrase?

11          A.    Yes.

12          Q.    You understand this as a lawyer, a judge  
13 could rule that a witness cannot testify at all, and  
14 you've told me that has not happened; correct?

15          A.    Yes.

16          Q.    And then a judge could rule that a witness  
17 may testify but may not express some of the opinions  
18 he wishes to give. I'm asking you now if the latter  
19 has happened to you?

20          A.    Oh, I don't know. There's always objections  
21 by attorneys. I don't remember a judge's response.  
22 I'm sure sometimes objections are sustained, of  
23 course. Not anything as a matter of judicial law  
24 unprecipitated by a lawyer's objection as a judicial  
25 ruling of a preparatory nature. I'm not aware

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1 anything like that. No.

2 MR. PHILLIPS: I want to mark the deposition  
3 notice as the next exhibit.

4 (Deposition Exhibit No. 11 was marked for  
5 identification.)

6 MR. GASS: Can I have a question read back.

7 (Requested portion of testimony was read  
8 back by reporter.)

9 BY MR. PHILLIPS:

10 Q. Doctor, in the deposition notice we asked  
11 you to bring certain things with you today. Have you  
12 made an attempt to comply with bringing all of your  
13 materials related to this case with you?

14 A. Yes.

15 Q. Are there any materials you have related to  
16 this case that are not in the room with us today?

17 A. No.

18 Q. Let's identify clearly for the record the  
19 materials that you have reviewed in this case. I  
20 think we may have covered some of them in the course  
21 of our conversation. We've got the summaries  
22 provided to you by Mr. Edwards; right?

23 A. Yes.

24 Q. We've got the medical records that came at  
25 some point from Baptist Hospital?

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1           A.     Yes.

2           Q.     And what other documents have you reviewed?

3           A.     Other medical records of Mr. Goode from his  
4 primary care physician having nothing to do with this  
5 case, I received those records, too.

6           Q.     Did those impact your opinions at all?

7           A.     No. They just confirmed that he had asthma,  
8 but otherwise had nothing to do really with my  
9 opinion, other than as it may relate to the asthmatic  
10 condition and as I'm aware of it. But as I've  
11 already said, I only know of this from the records  
12 and from Mr. Edwards, not from my autopsy findings.

13          Q.     Are those the records from the primary care  
14 physician?

15          A.     Yes.

16                 MR. PHILLIPS: Let's mark those as the next  
17 exhibit.

18                 (Deposition Exhibit No. 12 was marked for  
19 identification.)

20 BY MR. PHILLIPS:

21          Q.     Ultimately, did you review the autopsy  
22 report from Mississippi?

23          A.     Yes.

24          Q.     And the tox reports from Mississippi?

25          A.     Yes.

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1 Q. And the tox reports that you requested be  
2 done?

3 A. Yes.

4 Q. Is there anything else you reviewed other  
5 than what we just listed here together?

6 A. Well, there's, yeah, I had two expert  
7 reports; one from, that's been referred to today,  
8 from Dr. David Nichols.

9 Q. And the date on that, please?

10 A. January 11, 2016.

11 Q. Yes, sir.

12 A. And then I have a report from a cardiology  
13 expert retained by Mr. Edwards, from Dr. Parim,  
14 P-a-r-i-m, Parikh, P-a-r-i-k-h, dated January 31,  
15 2017, a report to Mr. Edwards from Dr. Parikh.

16 Q. Does that have any bearings on your  
17 opinions?

18 A. Well, yes, it does. It's consistent with  
19 and corroborative of from a clinician, from a  
20 cardiologist. So I've arrived at my opinions  
21 independently, however, so you ask did it have any  
22 effect, just the effect that, speak for myself, that  
23 I would always have when someone that I do not know  
24 and especially in a different area of medicine sets  
25 forth an opinion that is very consistent with mine;

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1 so in that sense it has. But my opinion had already  
2 been submitted, as you can tell, because I did not  
3 get Dr. Parikh's report until February of this year.  
4 It was not submitted to Mr. Edwards until January 31  
5 of this year.

6 Q. Is there anything else you reviewed?

7 A. Yeah. There's a statement here from an  
8 attorney representing the hospital that I had  
9 received. There's something else, a letter that was  
10 sent to Attorney Edwards by I think one of the  
11 gentlemen here today, Attorney David Upchurch, dated  
12 August 31, 2015. I was sent a copy of that letter.  
13 I also --

14 Q. Hang on just a minute. Did this letter,  
15 August of 2015 from Mr. Upchurch, have any bearing on  
16 any of your opinions?

17 A. Well, only in the sense that it corroborated  
18 what I already knew, namely that no heart monitoring  
19 had taken place prior to the code that was called.  
20 That was confirmed by Attorney Upchurch. It just  
21 confirmed what I already knew.

22 MR. PHILLIPS: We'll mark that as the next  
23 exhibit number.

24 (Deposition Exhibit No. 13 was marked for  
25 identification.)

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1 THE WITNESS: Then I received a statement  
2 taken by -- it is an interview conducted by Keith  
3 Hainey of somebody identified as HR manager. That  
4 was sent to me on July 23, 2015. Mr. Edwards sent  
5 that to me. The date of the interview was July 18,  
6 2015. This interview is of someone who was at the  
7 hospital when this occurred. That was sent to me.  
8 BY MR. PHILLIPS:

9 Q. Did that have any bearing on your opinions  
10 in the case?

11 A. Not directly. Again, it confirmed the fact  
12 that -- it just confirmed the observations set forth  
13 that I was already aware of in terms of what was  
14 taking place and how the police were conducting  
15 themselves and so on. So it blends in consistent  
16 with, supportive of my overall understanding of this  
17 case.

18 MR. PHILLIPS: We'll mark it as the next  
19 exhibit.

20 (Deposition Exhibit No. 14 was marked for  
21 identification.)

22 BY MR. PHILLIPS:

23 Q. What else have you reviewed in the case that  
24 we've not previously identified, doctor?

25 A. The photo, the disk that came with the



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1 autopsy from Mississippi. I just received a few days  
2 ago photos of the autopsy from the medical examiner's  
3 office sent to me by Mr. Edwards' office.

4 Q. Have you reviewed the photos?

5 A. Yes, I have looked at them.

6 Q. Did those photos have any bearing on any  
7 opinion you hold in the case?

8 A. No, they're of no relevance one way or the  
9 other.

10 Q. Have we covered everything that you've  
11 reviewed in this case?

12 A. Yes, I believe so.

13 Q. What correspondence do you have with  
14 Mr. Edwards --

15 A. You've seen it, here it is.

16 Q. Let me finish the question, if I could.

17 What correspondence do you have from  
18 Mr. Edwards or his firm that we've not already marked  
19 as an exhibit?

20 A. Nothing. It's what was here.

21 Q. It looks like you have something in your  
22 hand?

23 A. Yeah, but you already had this folder.

24 Q. We haven't marked it.

25 MR. PHILLIPS: The correspondence will be

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1 collective Exhibit No. 15.

2 (Deposition Exhibit No. 15 was marked for  
3 identification.)

4 BY MR. PHILLIPS:

5 Q. What is in this file?

6 A. This is the one from my autopsy report.  
7 That's the label that we put on here in my office  
8 with the autopsy number and a couple of letters, and  
9 the autopsy report is around somewhere.

10 MR. PHILLIPS: We'll mark these materials as  
11 the next exhibit.

12 (Deposition Exhibit No. 16 was marked for  
13 identification.)

14 BY MR. PHILLIPS:

15 Q. Have we covered it all or are there things  
16 remaining?

17 A. No, I think you have it all.

18 Q. That folder you have in front of you says  
19 timeline?

20 A. These are the timelines, yes.

21 Q. Is that separate than what we've already  
22 marked?

23 A. Yes, that's different. It's not the  
24 timeline that was marked before. These are just  
25 other timelines. They're all consistent.

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1 MR. PHILLIPS: We'll mark these as the next  
2 exhibit.

3 (Deposition Exhibit No. 17 was marked for  
4 identification.)

5 BY MR. PHILLIPS:

6 Q. Did you bring any records that would show  
7 your income just from being an expert witness in the  
8 last few years?

9 A. No.

10 Q. Are you able to estimate that for us?

11 A. My income from what?

12 Q. Serving as an expert witness, whether it be  
13 consultations, depositions, trials, reviews.

14 A. No. All monies that I make go into just one  
15 account, Cyril H. Wecht Pathology and Associates. I  
16 have no breakdown. We report all of it to our  
17 accountant and it all goes in together.

18 Q. What would you estimate would be the  
19 percentage of your annual income that you derive from  
20 your expert witness work?

21 A. Well, most of my income by far is from  
22 autopsies and then what flows from those autopsies.  
23 So, gee, I don't know, it's probably maybe roughly  
24 two to one, something like that. I can't be sure  
25 exactly a percentage.

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1 Q. I'm sorry, I didn't understand the  
2 percentage.

3 A. Roughly two to one in terms of the  
4 percentages of my income from autopsies and what  
5 flows from that with the district attorneys and  
6 testimony and so on on the one hand, and then the  
7 money from consultations that I make.

8 Q. So express for me as a percentage your  
9 estimate of your percentage of your income from your  
10 expert witness related work.

11 A. I just gave you the estimate.

12 Q. You gave me a ratio. How would you express  
13 it as a percentage?

14 A. It would be about roughly -- well, then a  
15 percentage that comes out to be roughly 65/35,  
16 something like that.

17 Q. With 65 being which portion?

18 A. Of my autopsies and what flows from the  
19 autopsies.

20 Q. Do you advertise your services as an expert  
21 witness?

22 A. No.

23 Q. Other than what we've already marked as an  
24 exhibit, were you provided any facts or data by  
25 Plaintiff's counsel that you considered in forming

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1 your opinions?

2 A. No. I've talked with Mr. Edwards, he's told  
3 me a lot of things, but nothing that is startlingly  
4 or significantly new and nothing different, no. No,  
5 nothing.

6 Q. We talked earlier about your September 28,  
7 2015 letter. Remember me showing you a copy of that?

8 A. Yes.

9 MR. PHILLIPS: I want to mark that as the  
10 next exhibit.

11 (Deposition Exhibit No. 18 was marked for  
12 identification.)

13 BY MR. PHILLIPS:

14 Q. I think you told me earlier that you did not  
15 have a copy of the September 28, 2015 letter in your  
16 file; correct?

17 A. That's right.

18 Q. Do you know why you didn't retain a copy of  
19 that letter?

20 A. Because it was sent to Mr. Edwards marked I  
21 think work product for him to look over and tell me  
22 if there was anything that I had not addressed. And  
23 apparently, and I don't know this as a matter of  
24 specific recollection, but I can only infer  
25 reasonably that Mr. Edwards probably did not get back

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1 to me until around the time that the final report was  
2 generated. But it is exactly the same, with no  
3 changes.

4 Q. Do you have an electronic file with any  
5 information about this case?

6 A. No.

7 Q. So everything that you have is on paper and  
8 there's no electronic file at all?

9 A. I have no electronic files.

10 MR. PHILLIPS: Dr. Wecht, these other  
11 counsel have been waiting patiently to question you.  
12 I'm going to yield to some of the other gentlemen in  
13 the room to ask questions. I may or may not have  
14 additional questions when they finish, but I  
15 appreciate your time.

16 MR. UPCHURCH: Let's take a brief recess.

17 (Whereupon, a short recess was taken off the  
18 record.)

19 - - -

20 E X A M I N A T I O N

21 BY MR. UPCHURCH:

22 Q. Dr. Wecht, my name is David Upchurch. We  
23 met immediately prior to your deposition some hours  
24 ago. I'll endeavor in my questioning not to be  
25 repetitive of Mr. Phillips. I would ask of you if

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1     you don't understand a question that I ask, if you  
2     would please let me know that, I'll be more than  
3     happy to rephrase the question.

4             In looking at the documents that have been  
5     marked as Exhibit No. 4, there were timelines or  
6     summaries that were provided to you, and I have a few  
7     questions about those.

8             I'm looking at a summary that was sent to  
9     you by email dated Tuesday, August 11, 2015 by  
10    Ms. Asbridge in Mr. Edwards' office. In that email  
11    there is a delineation of some events that gave rise  
12    to this lawsuit.

13            There is a note that at 2:30, and I'm  
14    quoting now, "Troy smoked at home (a joint); from a  
15    batch he had previously smoked from; no issues; Kelli  
16    has what's left; Troy a daily smoker; purchases from  
17    the same person".

18            Did you make any request to receive a batch  
19    of the marijuana that Troy smoked for testing  
20    purposes?

21            A.    Not that I recall. If there had been any  
22    discussion it would have been to have it submitted to  
23    NMS to have them do the testing. But no, not that I  
24    recall.

25            Q.    Do you have any knowledge that that

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1 marijuana that was referred to in the statement I  
2 just read you has been tested by AMS or any other  
3 laboratory?

4 MR. EDWARDS: NMS.

5 BY MR. PHILLIPS:

6 Q. Sorry. NMS.

7 A. There's a report from NMS on marijuana with  
8 a very high level. I don't know if that relates to  
9 that batch or not.

10 Q. Do you have any information as to the name  
11 of the person from whom Troy purchased his marijuana?

12 A. No.

13 Q. Same question or similar question, several  
14 times, several bullets down on this same email, it  
15 says "Troy and others gathered around in a circle  
16 (doing liquid LSD)".

17 Do you have any information, Dr. Wecht, as  
18 to how Troy consumed the LSD that's at issue in this  
19 case?

20 A. My recollection is they put something on the  
21 back of his hand and licked it or something. That's  
22 my understanding.

23 Q. Continuing on that bullet point says, "(Mike  
24 Friedman had same vial over a year; Troy used LSD on  
25 paper previously while in Chicago from same vial) no



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1 issues".

2 Did you ever make a request of Mr. Edwards  
3 to receive a copy of the vial of LSD referenced in  
4 this notation that I've just read to you so that it  
5 could be tested?

6 A. No.

7 Q. Do you have any knowledge that any such vial  
8 of LSD has been tested by any laboratory?

9 A. No, I have no knowledge of anything like  
10 that.

11 Q. In this same email, Dr. Wecht, there is a  
12 note that talks about the officers' interactions with  
13 Mr. Goode. And it says, and it's referencing the  
14 attack is referenced in here of one of the police  
15 dogs, and the bullet point says this: "At this point  
16 Kelli was trying to film incident with cell phone  
17 saying, quote, I am filming you, close quote."

18 Did you receive any film from Mr. Edwards  
19 depicting the incident at the scene with police and  
20 Mr. Goode?

21 A. No.

22 Q. Do I understand correctly from your  
23 testimony this morning that because you do not accept  
24 excited delirium as a scientific diagnosis, you did  
25 not consider that diagnosis as a potential cause of

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1 Mr. Goode's death in this case?

2 A. That would be correct. I mean, I  
3 anticipated it and told Mr. Edwards that, but did I  
4 consider it? No. Your question contains the answer.

5 Q. Although not stated in this fashion, your  
6 opinion is that Mr. Goode's death was secondary to  
7 positional asphyxia?

8 A. Secondary? It was caused by positional  
9 asphyxiation, yes.

10 Q. Define for me positional asphyxiation.

11 A. Well, in this case it's the full classical  
12 hogtied position with the individual, Mr. Goode, in a  
13 prone position, that's face, abdomen down, wrists  
14 tied behind him together and legs tied together at  
15 the ankles and brought up in flexed position at the  
16 knees. That's the classical hogtied position.

17 That is the physical scenario in which a  
18 person then in my opinion can die as a result of the  
19 respiratory compromise and then the subsequent  
20 effects on cardiac activity. That's positional  
21 asphyxiation.

22 So positional refers to the anatomic lie of  
23 the individual, the position of that person. And  
24 asphyxiation, deprivation of oxygen or diminution of  
25 oxygen. And that to me is the way in which this

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1 works.

2 And then the heart gets insulted and you  
3 have the cycle of diminished oxygenation to the brain  
4 and then diminished compromise control by the brain  
5 of cardiac and respiratory function, which leads to  
6 further diminution of oxygen. And that cycle just  
7 works very, very rapidly. And then ultimately you  
8 have cardiorespiratory arrest and death.

9 Q. Let me read this definition to you of  
10 positional asphyxia and see if you agree with it.  
11 "Cessation of adequate breathing by means of  
12 restraint and can occur by either positioning to  
13 compromise the airway, compression to inhibit the  
14 respiratory function or a combination of both such  
15 mechanisms."

16 A. Well, I agree with it, but I don't think  
17 it's complete. Read it one more time, please.

18 Q. Yes, sir. "Cessation of adequate breathing  
19 by means of restraint and can occur by either  
20 positioning to compromise the airway or compression  
21 to inhibit the respiratory function or a combination  
22 of both such mechanisms."

23 A. Well, first of all, it's not cessation.  
24 Ultimately of course when you go into  
25 cardiorespiratory arrest there is cessation, but the

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1 position does not lead to cessation in the way that  
2 if something collapses upon you or somebody stuffs  
3 something in your mouth or covers up your nose and  
4 throat, so-called burking.

5           So I would use diminution, compromise rather  
6 than cessation. There was nothing obstructing the  
7 airway here at all. And then compression, I wouldn't  
8 use that word, it's not compression necessarily. You  
9 can have positional asphyxiation without anybody  
10 pressing down on your chest, which does occur in many  
11 of these cases with one or more policemen pressing  
12 down knees, feet, baton or what have you.

13           So no, I would not -- I don't think it's a  
14 correctly, fully, properly stated definition from my  
15 perspective of positional asphyxiation. No, I don't  
16 agree with it. I don't accept that. It's part of  
17 it. You can get that happening of course in either  
18 of those two ways, but that doesn't depict the entire  
19 set of etiological factors.

20           Q.    Would it surprise you to know, Dr. Wecht,  
21 that I took that definition out of a text that you  
22 published?

23           A.    Yes, it would. It has to be revised then.  
24 What publication is it, if I can ask?

25           Q.    Your text Investigating and Prevention of

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1 Officer-Involved Deaths?

2 A. Did I write that?

3 Q. Yes, sir.

4 A. When was that? Where was it published?

5 Q. Don't know.

6 A. I don't mind criticizing myself. Could I  
7 just see that again, please.

8 Q. Yes, sir. There's your book, Investigation  
9 and Prevention of Officer-Involved Death. You're one  
10 of the authors.

11 A. Yes, I wrote that with Dr. Lee and two  
12 retired police chiefs.

13 Q. How do you understand in this case that  
14 Mr. Goode was hogtied, to use your term; do you  
15 understand that his hands and the shackles on his  
16 feet were actually bound together where his hands  
17 were touching his feet?

18 A. No, I don't think that the feet were brought  
19 up to that point. My understanding is that the  
20 wrists were tied behind him, his ankles were tied  
21 behind him and that there was a long shaft that went  
22 up along his back that coursed I guess under or over  
23 those two sets of handcuffs.

24 It's not my understanding that the four  
25 portions of his upper and lower appendages were

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1     contiguous.

2           Q.     Is a person who is obese or a person who has  
3     a large abdomen at an increased risk for experiencing  
4     positional asphyxia?

5           A.     Yes.

6           Q.     Is that because the size of the stomach is  
7     then -- or the stomach contents are pushed upwards  
8     and then there's pressure placed upon the diaphragm?

9           A.     More so the liver than the gastric contents,  
10    because you don't know whether somebody has eaten or  
11    not, obviously they have a big full stomach.

12                   No, sir, it's more so the liver which  
13    occupies and goes a little bit past the midline from  
14    the right side and comes up into the diaphragm.

15          Q.     Would we agree, doctor, that Mr. Goode was  
16    certainly not obese by any definition?

17          A.     Yes.   The weights that I see, no, he was not  
18    obese.

19          Q.     Would you also agree that there are  
20    preexisting physical conditions that can increase  
21    one's risk for positional asphyxia, such as heart  
22    disease?

23          A.     Oh, sure.   If you have heart disease you  
24    would be that much more susceptible, depending upon  
25    how severe it is.   If you have valvular disease or if

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1     you have atherosclerosis of the coronary arteries,  
2     sure, that could further compromise the picture  
3     because you already have some compromise of the  
4     normal cardiovascular flow.

5           Q.     Would bronchitis fall into that list of  
6     preexisting diseases that might increase one's risk  
7     for positional asphyxia?

8           A.     If you had a chronic bronchial condition  
9     like asthma, bronchiectasis, or significant chronic  
10    bronchitis, it could.

11          Q.     What about emphysema?

12          A.     Emphysema could, too, yes.

13          Q.     What about an exacerbation of an asthmatic  
14    condition?

15          A.     If somebody has asthma, then that person  
16    would be more susceptible to any kind of diminution  
17    or deprivation of oxygen because the disease is in  
18    place and there is that tendency, and we don't know  
19    the etiology of many asthmatic conditions, but  
20    there's something there that causes the bronchioles  
21    to constrict, producing that kind of obstruction and  
22    diminished oxygen flow.

23                 So yes, if you have a significant or you  
24    have an asthmatic condition, it could make you more  
25    susceptible.

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1 Q. Are there any other physical conditions that  
2 you would add to that list of conditions that would  
3 increase one's risk for experiencing positional  
4 asphyxia?

5 A. No. Hepatic, adrenal, cerebral. No,  
6 basically, you're dealing with the heart and lungs  
7 and the components thereof. So in the case of the  
8 heart, obviously the coronary arteries and the  
9 valves. And in the case of the lungs, the trachea,  
10 somebody could have, you know, we already talked  
11 about bronchitis, if he had some problem involving  
12 the pharyngeal area, the epiglottic area, the higher  
13 area before it goes into the lung tissue.

14 But as far as other body organ systems, no,  
15 not getting into psychological things, how it would  
16 be handled.

17 Q. My question was dealt to medical conditions.

18 A. Limited to the respiratory and cardiac and  
19 if he had anything in the oral pharyngeal system.  
20 Then of course if somebody had dentures, that could  
21 produce a problem, but we don't have that in this  
22 case.

23 Q. You did not find any evidence of underlying  
24 heart disease for Mr. Goode, did you?

25 A. No.



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1           Q.    You did not find any underlying disease of  
2 bronchitis or emphysema?

3           A.    No.

4           Q.    And found neither grossly nor  
5 microscopically any asthmatic condition that you  
6 could report, did you?

7           A.    That's right.

8           Q.    Am I correct in understanding your prior  
9 testimony to questions asked by Mr. Phillips that you  
10 did not find on your autopsy any evidence of ischemic  
11 encephalopathy?

12          A.    No. The brain had been sectioned and  
13 nothing was grossly evident or microscopically.

14          Q.    Am I likewise correct in understanding that  
15 you did not find any gross or microscopic evidence of  
16 multi-organ system failure?

17          A.    That's correct.

18          Q.    You discussed with Mr. Phillips some  
19 symptoms that you would attribute to the theory of  
20 excited delirium, a medical condition that you don't  
21 recognize, and we certainly understand that, but see  
22 if you'll agree with me about a list of symptoms that  
23 are associated with that diagnosis. One would be an  
24 individual who is impervious to pain?

25          A.    No, I can't agree with that. I'm aware that

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1 people who believe in excited delirium and these  
2 police-related deaths, they confer upon the victim  
3 literally Superman abilities, they can lift cars and  
4 harrow them through space and they don't feel pain  
5 and so on. No, I do not. There is nothing that  
6 makes the person, that happens to the nervous system,  
7 the sensory nerves, impervious to pain. No, I do not  
8 agree with that.

9 Q. All right, sir. What about the symptom of  
10 having a significant increased or great strength as  
11 you just mentioned that you believe that is a symptom  
12 of excited deliria?

13 A. I'm aware of that. The answer is this:  
14 When you're faced with an emergency, can you  
15 sometimes do things that you might not ordinarily  
16 consider and so on? Yes. But not the kind of  
17 increased physical strength that is attributed to  
18 these people by the proponents of excited delirium.  
19 No, I do not agree with that. You don't all of a  
20 sudden become Clark Kent in disguise.

21 Q. What about hyperthermia?

22 A. Again, I'm aware of that finding. I do  
23 agree that in those cases which they classify,  
24 categorize as excited delirium that they list  
25 hyperthermia. And I've discussed that in this case

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1 it was not present.

2 Q. What about sweating?

3 MR. EDWARDS: Excuse me, did you say hypo or  
4 hyperthermia?

5 BY MR. PHILLIPS:

6 Q. Hyper.

7 A. Hyper.

8 Q. What about sweating?

9 A. That would depend to a large degree on the  
10 environment. Certainly if you're struggling and so  
11 on, it goes on for a period of time, you might begin  
12 to sweat. It depends how long a time, how much the  
13 struggle is, what kind of clothing, what is the  
14 temperature. So that would vary.

15 Q. What about do you believe that bizarre and  
16 violent behaviors is a symptom associated with  
17 excited deliria?

18 A. Again, I attribute this to the combination  
19 of the inability to breathe normally, the entire  
20 scenario, your body being bound in that fashion and  
21 the police there and yelling at you and so on, I can  
22 just imagine the choice epithets that were used,  
23 although I have no recordation of that.

24 Combative, yes; when you can't breathe and  
25 you're bound in that fashion, I understand why you

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1 would become combative. But again, as you have  
2 already stated, what I'm saying is I understand that  
3 this is considered to be a component of the excited  
4 delirium phenomenon. And I don't accept excited  
5 delirium, but I am aware of that sign.

6 Signs are things that you can see, by the  
7 way. And symptoms are things that are expressed by  
8 the person. So you got a combination of signs and  
9 symptoms there.

10 Q. Yes, sir. I'm reading from your book where  
11 it says excited delirium symptoms include:

12 Impervious to pain, great strength, hyperthermia,  
13 sweating, bizarre and violent behavior, aggression,  
14 hyperactivity, hallucinations, confusion and  
15 disorientation, foaming at the mouth, drooling and  
16 dilated pupils.

17 Do you agree with that list of symptoms  
18 associated with excited delirium?

19 A. For those people, yes, who believe in  
20 excited delirium, yes, those are the list of signs  
21 and symptoms.

22 Q. Do you know whether or not this case has  
23 been scheduled for trial?

24 A. No. I have no trial date.

25 Q. Have you been requested to appear at trial

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1 in this case?

2 A. There's been no discussion at all with  
3 Mr. Edwards about that, but if I am called to testify  
4 pursuant to my report, this deposition, etcetera, I  
5 shall testify, but there's been no discussion. I  
6 haven't any idea at all what the status of this case  
7 is.

8 MR. UPCHURCH: Thank you, sir. That's all  
9 the questions I have for you.

10 MR. GASS: Can we go off the record a  
11 minute. I have one thing I want to ask that I'm  
12 confused on.

13 MR. EDWARDS: We're not going to have two  
14 lawyers.

15 MR. GASS: That's why I said we're going off  
16 the record.

17 MR. EDWARDS: I just want to make clear that  
18 we've got one lawyer per client.

19 (Whereupon, a short recess was taken off the  
20 record.)

21 MR. MILLER: My name is Steve Miller, I'm  
22 the attorney for Southeastern Emergency Physicians.  
23 I don't have any questions for you. Pass the  
24 witness.

25 MR. UPCHURCH: Brad, any questions?

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1 MR. DILLARD: Just one or two brief  
2 questions.

3 - - -

4 E X A M I N A T I O N

5 BY MR. DILLARD:

6 Q. Doctor, this is Brad Dillard, I represent  
7 the Southaven Defendants.

8 You referenced at length in your report the  
9 phrase hogtied in conjunction with four-point  
10 restraint. In your opinion is there any difference  
11 between the phrase hogtied and four-point restraint?

12 A. No, I guess I would take that synonymously.  
13 Four-point, right, the two wrists and the two ankles.  
14 Some people may use hogtied in a strict classical,  
15 limiting it to ankles brought up in hyperflexion to  
16 wrists posteriorly, and I would not argue with that  
17 then.

18 So that differentiation could be made  
19 between that kind of hogtie if that's what somebody  
20 is talking about. I am aware, as I was asked earlier  
21 a little bit ago, that the ankles were not brought up  
22 to the wrists.

23 Q. Your use of the term hogtied then would  
24 simply be any type of shackle or device where the  
25 ankles and the wrists are bound together regardless

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1 of the length of the chain or the ability to move;  
2 would that be correct?

3 A. Well, yeah, in this case where they're all  
4 tied, and there's a rod pole or shaft that goes along  
5 the length of the body. Yes, that's the way I would  
6 use that in this case.

7 Q. Just to be sure I'm clear, doctor, your  
8 opinions in this case are limited to Mr. Goode's  
9 cause of death; correct?

10 A. If you're asking me am I going to be an  
11 expert on -- I've already talked about medical  
12 malpractice, I'm not going to express any opinions on  
13 that regarding the EMS hospital doctors and nurses,  
14 and I'm not going to express opinions other than that  
15 which I know that fall into my domain as I have  
16 referred to several times today regarding law  
17 enforcement agencies and so on.

18 But if this were, let's say, an analog of a  
19 medical malpractice case against law enforcement  
20 officers, no, I'm not going to be expressing opinions  
21 on that. Just the overall scenario, but not breaking  
22 it down into specific actions attributed to any  
23 particular officer.

24 Q. Yes, sir. The full scope of your opinions  
25 has been discussed during the examination primarily

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1 by other counsel; correct?

2 A. Yes. I do not believe that there's anything  
3 that was not covered. Mr. Edwards will come in with  
4 his own approach, but I think everything has been  
5 covered. I'm not aware of any area -- I may be asked  
6 other questions about specific actions here and  
7 there, but there's nothing that we haven't talked  
8 about.

9 MR. DILLARD: Thank you. No further  
10 questions.

11 MR. PHILLIPS: I have one housekeeping  
12 matter. Doctor, I was told I need to bring a check  
13 if we went over four hours. What is the amount  
14 owing?

15 THE WITNESS: \$500.

16 MR. PHILLIPS: I'm about to give you that  
17 check now.

18 THE WITNESS: Thank you.

19 MR. GASS: Just housekeeping on the rest of  
20 the exhibits, madam court reporter, are you going to  
21 give us hard copies, electronic copies?

22 COURT REPORTER: Whatever you prefer.  
23 Please let me know what you would like.

24 MR. EDWARDS: For the Plaintiff, I want an  
25 electronic copy, E-Tran, and electronic copies of the



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1 exhibits. And Dr. Wecht will get the hard back.

2 THE WITNESS: And a hard copy of the  
3 transcript?

4 MR. EDWARDS: I will get you that.

5 COURT REPORTER: Do you want to read the  
6 transcript?

7 MR. EDWARDS: Do you want to read and sign?

8 THE WITNESS: I'll need a hard copy unless  
9 you tell me.

10 MR. EDWARDS: Let's reserve signature.

11 MR. UPCHURCH: I would like an electronic  
12 and a hard copy, and I assume that will come with a  
13 condensed and a word index.

14 MR. PHILLIPS: Marty Phillips, I get the  
15 original since I set the deposition and of course  
16 copies of all the exhibits. I also want an  
17 electronic copy, and will you provide a condensed  
18 version as well?

19 COURT REPORTER: Yes.

20 MR. MILLER: Same for me, Stephen Miller.  
21 Not the original, but a copy.

22 MR. DILLARD: This is Brad Dillard, I'll  
23 take the same as Mr. Upchurch ordered, please.

24 (Deposition Exhibit Nos. 19 through 35 were  
25 marked for identification.)

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1 MR. GASS: Let me make a record of what has  
2 been marked. Exhibit No. 19 is an empty folder.  
3 What I'm asking is that there be just a photocopy of  
4 these folders with the exhibit sticker.

5 Exhibit No. 20 has papers in it, so both the  
6 outside of the folder and the papers that are inside  
7 of it. Exhibit No. 21, same thing, photocopy of the  
8 outside plus the papers that are in it. Exhibit  
9 No. 22, photocopy of the outside plus the papers  
10 inside.

11 Exhibit No. 23 is a CD disk that we would  
12 want a copy of. Exhibit No. 24, outside of the  
13 folder plus the papers that are in it. Exhibit  
14 No. 25, the 1-11-2016 Purdue letter. Exhibit No. 26  
15 email packet. Exhibit No. 27 Wecht letter of  
16 December 5, 2016. Exhibit No. 28, the packet of  
17 photos plus a copy of all photos inside.

18 Exhibit No. 29, just a copy of the empty  
19 folder. Exhibit No. 30, copy of the empty folder.  
20 No. 31, a copy of the empty folder. 32, copy of the  
21 empty folder. 33, a complete copy. And his slides  
22 have been marked, there are two yellow trays, one is  
23 marked Exhibit No. 34 and one is marked Exhibit  
24 No. 35. Those we don't need copies of.

25 MR. EDWARDS: Show that those will be

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1 retained by Dr. Wecht.

2 MR. PHILLIPS: Lay those on the copier and  
3 make a copy of the front page.

4 (At 1:35 p.m., the deposition was concluded.  
5 Signature was not waived.)

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**ORIGINAL**

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## ERRATA SHEET

1	PAGE	LINE CHANGE/CORRECTION	REASON FOR CHANGE/CORRECTION
2			
3			
4	<u>41</u>	<u>lines 1-8</u>	
5		<u>Correction -</u>	
6		<u>I had received a video of the</u>	
7		<u>scene from Attorney Edwards.</u>	
8		<u>I viewed that video as part</u>	
9		<u>of my overall review and analysis of</u>	
10		<u>this case.</u>	
11			<u>Cyril H. Wecht MD</u>
12			<u>6 April 2017</u>
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## C E R T I F I C A T E

- - -

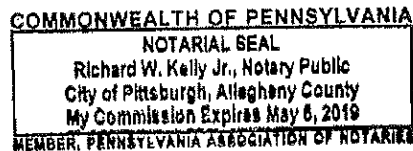
I, CYRIL H. WECHT, MD, JD, do hereby certify  
 that I have read the foregoing transcript and it is a  
 true and correct copy of my deposition, except for  
 the changes, if any, made by me on the attached  
 Deposition Correction Sheet.

*Cyril H. Wecht*  
 CYRIL H. WECHT, MD, JD

Date *6 April 2017*

*Saworn to & subscribed  
 before me this 7th  
 day of April, 2017*

*W. Kelly*



Alpha Reporting Corporation

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1 COMMONWEALTH OF PENNSYLVANIA )  
2 ) SS  
3 COUNTY OF WASHINGTON )  
4

5 CERTIFICATE

6 I, Kathy D. Landock, a Notary Public in and  
7 for the Commonwealth of Pennsylvania, do hereby  
8 certify that the witness, CYRIL H. WECHT, MD, JD, was  
9 by me first duly sworn to testify the truth, the  
10 whole truth, and nothing but the truth; that the  
11 foregoing deposition was taken at the time and place  
12 stated herein; and that the said deposition was  
13 recorded stenographically by me and then reduced to  
14 typewriting under my direction, and constitutes a  
15 true record of the testimony given by said witness,  
16 all to the best of my skill and ability.

17 I further certify that I am not a relative,  
18 employee or attorney of any of the parties, or a  
19 relative or employee of either counsel, and that I am  
20 in no way interested directly or indirectly in this  
21 action.

22 IN WITNESS WHEREOF, I have hereunto set my  
23 hand and affixed my seal of office this 24th day of  
24 March, 2017.

25  
Kathy D. Landock, Notary Public  
Certified Realtime Reporter

My Commission Expires:  
March 24, 2019

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<b>\$</b>	<b>19</b> 82:12 152:24	<b>21</b> 11:1	<b>40,000</b> 52:21 69:8
<b>\$2,200</b> 103:15	<b>1962</b> 112:12 118:7,25	<b>23</b> 8:7,9,16 9:2 12:4 16:15,19 22:21 31:8 32:2 35:24 127:4	<b>5</b>
<b>\$2,500</b> 103:16	<b>1979</b> 46:19	<b>24</b> 72:8 74:22	<b>5</b> 8:10 9:1 16:2 17:13 19:21,25 20:14 22:18 25:14 27:8 28:24 30:21 36:11,13,16 38:18 41:9 53:14 54:4 61:19,21, 22,23 70:1,3 74:3 88:17
<b>\$3,500</b> 114:16	<b>1980s</b> 120:9	<b>250</b> 119:5,24	<b>50</b> 99:11 118:1,22
<b>\$3,850</b> 36:1,9	<b>1990s</b> 120:11,19,21 121:9	<b>26-</b> 93:19	<b>55</b> 52:18,20
<b>\$500</b> 151:15	<b>1998</b> 82:13	<b>275</b> 16:11	<b>56</b> 57:8
<b>\$6,475</b> 36:6	<b>1999</b> 112:6	<b>275th</b> 16:17	<b>6</b>
<b>\$800</b> 36:4	<b>2</b>	<b>28</b> 29:7 30:12,20 37:19 40:25 132:6,15	<b>6</b> 22:18 62:14 94:21,22
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<b>05</b> 107:2	<b>2,000</b> 118:25	<b>2:30</b> 134:13	<b>65</b> 131:17
<b>06</b> 106:13 107:4	<b>20</b> 8:4,13,18 10:17,19 32:1,3 77:6 109:13 110:10	<b>3</b>	<b>65/35</b> 131:15
<b>1</b>	<b>20,000</b> 52:21	<b>3</b> 8:12 22:5,6,11 61:19, 22 74:6,20	<b>67</b> 118:21
<b>1</b> 11:6,7 82:19 88:21	<b>2000</b> 112:6,12,17,20	<b>3,000</b> 118:25	<b>7</b>
<b>1,750</b> 118:22	<b>2006</b> 111:23	<b>30</b> 77:6	<b>7</b> 84:25 100:14
<b>10</b> 42:9,11 109:13 114:20,21	<b>2007</b> 88:21	<b>300</b> 119:6	<b>70s</b> 110:25
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<b>11</b> 55:21 68:20 123:4 125:10 134:9	<b>2009</b> 107:22	<b>33</b> 118:21	<b>8</b> 102:8
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